

IN THE SUPERIOR COURT OF DECATUR COUNTY
STATE OF GEORGIA

JAMES BRYAN WALDEN AND
LINDSAY WALDEN, individually
and on behalf of the Estate of their
Deceased Son, Remington Cole Walden,
Plaintiffs,
vs.
CHRYSLER GROUP, LLC AND
BRYAN L. HARRELL,
Defendants.

CASE NO. 12-CV-472

VOLUME 4 OF 16
PAGES 590-747

IN RE: Jury Trial
BEFORE: HONORABLE J. KEVIN CHASON
Circuit Judge
DATE: Wednesday, March 25, 2015
TIME: Commenced at 1:03 p.m.
Concluded at 5:06 p.m.
LOCATION: Decatur County Courthouse
Bainbridge, Georgia
REPORTED BY: LORI DEZELL
Registered Professional Reporter

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1 They're not -- I'm not going to cut that off by refusing
2 to bring anybody.
3 **THE COURT:** I understand your objection. I'm going
4 to overrule your objection. I looked at the pretrial and
5 the pretrial order, and the Plaintiffs listed -- can't
6 remember the exact language of it. I can pull it. But
7 basically I think they said so-called corporate
8 representative, I think is how they listed it. I'm going
9 to allow him to do that.
10 **MR. JIM BUTLER:** I had one question, Your Honor. My
11 memory grows dim. With respect to the rule of
12 sequestration, I understand the part about keeping all
13 witnesses out of the courtroom, but we need to be able to
14 talk to our expert witnesses. And I can't remember if the
15 Court said that --
16 **THE COURT:** Can't talk about the case. You can't
17 talk about testimony and what's going on in this case.
18 **MR. JIM BUTLER:** No, no. We talked to them about
19 their testimony and get them ready for their direct
20 examination. That's all I want to talk to them about.
21 **THE COURT:** Mr. Bell, response?
22 **MR. BELL:** Well, I think -- I think the rule probably
23 should be you can talk to them about their testimony but
24 not what's going on in this courtroom. That would be --
25 that would be fair for us.

1 **PROCEEDINGS**
2 **MR. BELL:** We have a brief matter. We can talk about
3 it or we can talk about it at the break.
4 **THE COURT:** All right. Well, I'm going to -- give me
5 one minute with the clerk and then we'll start.
6 (Off the record.)
7 **THE COURT:** Mr. Bell, you said you had a matter?
8 **MR. BELL:** Your Honor, Mr. Butler made a statement
9 before we broke about a company witness or a
10 representative. I think we've addressed that issue
11 before. What I don't think would be appropriate, we've
12 told the Court, we don't have a company representative
13 here in the courtroom. We have a company representative.
14 We just heard six hours of testimony. And we may have
15 somebody in our case, but I don't think it's appropriate,
16 because there's no authority under Georgia law to compel
17 us to have a corporate representative here. For him to
18 have a colloquy in front of the jury, it may be a subject
19 for closing argument, but not something that should be
20 raised in front of the jury at this point.
21 **THE COURT:** Mr. Butler, response?
22 **MR. JIM BUTLER:** I'm entitled to call -- when you
23 asked me to call my next witness, I'm entitled to
24 announce, we call Chrysler's designated corporate
25 representative for cross examination if there is one.

1 **THE COURT:** All right.
2 **MR. BICKNESE:** We don't have any objection.
3 **THE COURT:** I don't want to exclude you from the
4 conversation, though.
5 **MR. BICKNESE:** All right.
6 **MR. JIM BUTLER:** Thank you, Your Honor. We agree
7 with what Mr. Bell said.
8 **THE COURT:** All right.
9 **MR. JIM BUTLER:** It's a red letter day.
10 **THE COURT:** Uh-huh.
11 **MR. BELL:** Your Honor, I just -- I don't want to have
12 a lot of colloquy about this --
13 **THE COURT:** There's not going to be a lot, but he
14 listed them. And I think you've told them in the opening
15 statement, there wasn't going to be one, you lawyers did
16 in voir dire. All right.
17 **MR. KIRBO:** Your Honor, we just wanted to let the
18 Court be aware that one of our co-counsel will not be back
19 this afternoon for medical reasons.
20 **MR. BELL:** Your Honor, there would be one more thing.
21 And this may be one of Mr. Brantley's. I think Al King is
22 going to testify today.
23 **MR. JIM BUTLER:** Al who?
24 **MR. BELL:** Mr. King. I'm sorry. I'm switching
25 gears. Kenny King. This is Mr. Brantley's witness.

1 There was something in opening statement that we objected
2 to. So I'm going to let him bring that to your attention.
3 **MR. BRANTLEY:** Your Honor, specifically the
4 testimony of Mr. King, in his opinion Remington was trying
5 to get out of the vehicle based upon -- not based upon his
6 personal knowledge looking at the scene during the fire,
7 he came after everything was said and done. And he saw a
8 photograph of the scene. It's his opinion based upon the
9 photograph and no personal knowledge whatsoever that
10 Remington was trying to get out of the vehicle. That is
11 improper opinion testimony from a lay witness. It's
12 exactly what the jury is going to be asked to decide in
13 this case. So it's not proper for the Plaintiffs to call
14 a lay witness to give an opinion that the jury is supposed
15 to reach in the case about what it is that means that
16 Remington was in the position that he was after the
17 incident. It would be no good for the jury to hear every
18 witness come in and testify about that means with no basis
19 to do that. He has no education, training and experience
20 with respect to providing that opinion. He's simply a lay
21 witness. And on top of that, it is so very prejudicial
22 under 403. It should be kept out on that basis as well.
23 **THE COURT:** All right. Mr. Butler?
24 **MR. JEB BUTLER:** Your Honor, first, Captain King is
25 not a true lay witness. He's a 40-year veteran of

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1 doesn't mean anything because it was pushed in that
2 position by the fire hoses that sprayed Remington when
3 they were putting out the fire.
4 Now, we've filed a *Daubert* motion on Bennett as to
5 that, and I'm not trying to make one now. Bennett can
6 come say what he wants to. We're entitled to contest
7 that. And the person that can do that is the person who
8 saw the body in the car and removed the body from the car.
9 That's Captain King.
10 **THE COURT:** Mr. Bicknese, anything?
11 **MR. BICKNESE:** No argument.
12 **THE COURT:** What I'm going to do is based on his --
13 you know, if, in fact, he saw the body in the car, I'm
14 going to allow him to testify to that. If he did not see
15 anything in the car, and he just saw pictures, I'm not
16 going to allow him to testify to that.
17 **MR. JEB BUTLER:** We'll lay a foundation.
18 **MR. BRANTLEY:** May I mark as Defendant's
19 Exhibit 2001, the PowerPoint slide that identifies the
20 testimony which we referenced?
21 **THE COURT:** Yes, sir. All right. Bring this jury
22 out, please.
23 (Jury seated in jury box.)
24 **THE COURT:** Be seated, please. Call your next
25 witness, Mr. Butler.

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1 Decatur County fire department. He's obtained the rank of
2 captain. Second, he didn't just see pictures and then
3 offer some opinion. Mr. King went to the vehicle, saw
4 Remington's body in the vehicle. And the Court has seen
5 those pictures. They're the ones that were in our motion
6 for summary judgment response that are tough to look at.
7 And he'll talk about what he saw and what that means in
8 his experience. The other problem, what Chrysler wants to
9 do now is that it's untimely. Motions in limine were due
10 sometime in February, if I remember right. And I think
11 Chrysler actually did file a motion in limine that would
12 encompass the position of the body. And the Court I
13 believe deferred it without instruction to approach. So
14 this is untimely, has already been ruled on. Captain King
15 is not a lay witness in the traditional sense of the word.
16 It was not -- at the King deposition to which
17 Mr. Brantley now objects, I was there. I don't think I
18 asked a single question. I know I didn't elicit this
19 testimony. It was Chrysler who asked for an opinion from
20 Captain King who gave it. And now Chrysler objects to the
21 testimony it elicited.
22 Last and finally, Chrysler wants to bring the Montana
23 pathologist, Dr. Bennett, to testify here. Bennett has
24 opined in his deposition that the body -- the position of
25 the body of Remington Walden after the fire was put out

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1 **MR. JIM BUTLER:** Your Honor, we would call for cross
2 examination of Chrysler's corporate representative at this
3 trial.
4 **THE COURT:** Mr. Bell, response?
5 **MR. BELL:** Your Honor, the corporate representatives
6 have given six hours of deposition. If we had a
7 representative here, we will call -- have that person
8 available during our case in chief.
9 **MR. JIM BUTLER:** Those witness are people that we --
10 **THE COURT:** Do you have a witness here to testify --
11 **MR. JIM BUTLER:** They were not corporate
12 representatives.
13 **THE COURT:** If you have a witness here as a corporate
14 representative to testify, they're entitled to
15 cross-examine them.
16 **MR. BELL:** We do not have a witness here at this
17 time, Your Honor.
18 **MR. JIM BUTLER:** May we approach, Your Honor.
19 (Bench conference commenced.)
20 **MR. JIM BUTLER:** Mr. Bell has misled this jury. He
21 identified these four witnesses as his corporate
22 representatives. One of them, the chairman, Marchionne,
23 was deposed only pursuant to this court order over
24 Chrysler's objections it's -- it's outrageous for Mr. Bell
25 to call Marchionne one of their corporate representatives

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1 when they didn't want the man testifying at all. I don't
2 know what to do about it, and I want to put that on the
3 record right now because now is the time to do it and I'll
4 try to think of some curative instruction for the Court --
5 to ask the Court to give.
6 **THE COURT:** Well, my -- and that's basically for a
7 different subject. You said you don't have one at this
8 time. If you have one that's going to testify as a
9 corporate representative, he has called them and I'm not
10 going to it allow you to call him later.
11 **MR. BELL:** We have no one here.
12 **THE COURT:** Do you intent to call one later?
13 **MR. BELL:** We may, yes.
14 **THE COURT:** Why aren't they here?
15 **MR. BELL:** Well, the first time that we heard to get
16 somebody here was about eight o'clock, nine o'clock last
17 night. We've listed our witnesses in our case.
18 **MR. JIM BUTLER:** I'll save you some time.
19 **THE COURT:** Just a minute.
20 **MR. JIM BUTLER:** I'm sorry.
21 **MR. BELL:** We've listed the witnesses in our case
22 that we intend to call in our case. That's what we've
23 done. That's what we were required to do. There has been
24 no authority under the Georgia rules to have a corporate
25 representative present for the plaintiffs' case. The

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1 **THE COURT:** You know, you don't have one here and
2 then what you're telling the Court is you may or may not
3 want to bring one as part of your case.
4 **MR. BELL:** That's exactly what I'm saying, yes.
5 **THE COURT:** All right. Mr. Butler?
6 **MR. JIM BUTLER:** I don't think he can do that. I'll
7 be glad to protect the record. With respect to first
8 comment Mr. Bell made, that the first notice -- claims
9 first notice he had that we wanted someone here is last
10 night. I sent an email last night saying we might call
11 corporate rep today. To avoid any problem on appeal with
12 respect to that statement by Mr. Bell, tomorrow morning I
13 will re-announce that we call the corporate rep. Then
14 he's got the day to get somebody here if he wants to bring
15 somebody. If he doesn't bring somebody tomorrow, then
16 we'll object to them putting on anybody during their case
17 in chief.
18 **THE COURT:** All right. Well, let's move forward with
19 what we have here today.
20 **MR. JIM BUTLER:** Thank you, Your Honor.
21 (Bench conference concluded.)
22 **THE COURT:** Call your next witness, Mr. Butler.
23 **MR. JIM BUTLER:** For this part of the trial, we've
24 excused Lindsay and Bryant from the courtroom, if that's
25 all right with the Court.

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1 rules under Rule 30(b)(6) are you can take a deposition of
2 a corporate representative and we have to designate
3 somebody on every subject matter that he wants to talk
4 about. The Plaintiffs in this case have not done that.
5 They've taken the president of the company, they have
6 taken three engineers' depositions. They did not ask for
7 a corporate representative.
8 **THE COURT:** I think somewhat you're playing a game,
9 Mr. Bell. At the last -- Mr. Butler at the last hearing
10 date wanted you to designate your corporate representative
11 who they were, and Chrysler refused to do that and I
12 didn't compel them to do that.
13 **MR. BELL:** That's, that's exactly --
14 **THE COURT:** So this comes as no surprise.
15 **MR. BELL:** The fact that he seeks a corporate
16 representative at trial was brought up earlier. We take
17 the position that we're not obligated under Georgia civil
18 procedure to produce a witness at trial. There's simply
19 no authority for that.
20 **THE COURT:** What I'm telling you though is, you know,
21 is he listed the corporate representative to be a part of
22 his case in chief as a witness.
23 **MR. BELL:** Yes.
24 **THE COURT:** That's in the pretrial order.
25 **MR. BELL:** Yes, he did.

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1 **MR. JEB BUTLER:** Would the Court like me to swear the
2 witness or someone else to do that?
3 **THE COURT:** I don't think it matters. I'll probably
4 do it.
5 Mr. Butler, if you'll remain standing and raise your
6 right hand.
7 Thereupon,
8 **JERRY BUTLER**
9 was called as a witness, having been first duly sworn, was
10 examined and testified as follows:
11 **THE COURT:** All right. Please be seated, sir.
12 **DIRECT EXAMINATION**
13 **BY MR. JEB BUTLER:**
14 **Q** Please introduce yourself to the jury.
15 **A** My name is Jerry Butler.
16 **Q** Where do you live, Mr. Butler?
17 **A** Faceville.
18 **Q** Where do you work?
19 **A** Chattahoochee, Florida, and Shaw Industries,
20 Bainbridge.
21 **Q** Do you work both of those jobs on the same day
22 sometimes?
23 **A** Yes, I do.
24 **Q** Were you working both of those jobs on March 6, 2012,
25 the day that the wreck this case is about occurred?

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1 A Yes, I was.
 2 Q Were you, in the afternoon of that day, traveling
 3 from your first job with the State hospital to Shaw Industries?
 4 A Yes, I was.
 5 Q Tell us what road you took to get between the jobs.
 6 A That's 97 coming into Bainbridge. And then I went by
 7 Quick Buy to get on -- I call it the Boat Basin Road. They
 8 call it the Old Faceville Road, I think.
 9 Q When you were on that road, did you come upon the
 10 wreck that this case is about?
 11 A Yes, I did.
 12 Q What did you see first?
 13 A I saw a black woman in the road, very upset, walking
 14 across, pacing the road.
 15 Q What did you do?
 16 A I pulled over to see what was going on.
 17 Q Did you get out of your car?
 18 A I got out of my car.
 19 Q What did you do once you got out of your car?
 20 A I heard her yelling, that baby, that baby. And I
 21 walked up to the vehicle where I --
 22 Q Did you walk up towards the -- where the woman was
 23 standing?
 24 A I had -- I walked past her.
 25 Q Tell us what you saw when you walked past the woman

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1 couldn't do nothing. I started crying and got in the car and
 2 left. Turned around and went the other way.
 3 Q Why did you turn around instead of going toward the
 4 Jeep?
 5 A Because I smelled the gas and I knew it was fixing to
 6 blow. I saw the gas and the fire, you know, smelled it, and I
 7 knew it was fixing to blow and I didn't want to see it.
 8 Q Could you see the Jeep burning?
 9 A I could see the Jeep burning.
 10 Q Tell us what happened once you turned and started to
 11 go.
 12 A Talking about start to turn around and go?
 13 Q As you're walking back to your vehicle.
 14 A As I said, I was crying. And I just went on and got
 15 in my car as quick as I could.
 16 Q I'd like to show you now an exhibit. And this is --
 17 you wouldn't know this, but this is from the opening statement
 18 that Chrysler gave in this case.
 19 A Do what now?
 20 Q It should pop up on the screen in front of you. Do
 21 you see it?
 22 A No, sir.
 23 Q Well, step down, if the Court will allow it, and take
 24 a look at the screen so you can see what the jury is looking
 25 at.

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1 shouting in the middle of the road.
 2 A I saw a vehicle burning, smoke and fire on the
 3 vehicle.
 4 Q Did you smell anything?
 5 A I smelled gas.
 6 Q Tell us what the fire looked like when you first saw
 7 it, please.
 8 A It was an orange fire. Orange fire.
 9 Q Were you able to hear anything?
 10 A I heard a child in that vehicle.
 11 Q What did it sound like? What did the child sound
 12 like?
 13 A Just hollering. I can't think -- just hollering.
 14 Q Okay. Was it a loud shout like someone in pain or
 15 was it just a soft --
 16 A Yeah, someone in pain.
 17 Q Could you make out any words?
 18 A I couldn't make out nothing, sir.
 19 Q As you were there, did you see the fire grow?
 20 A A little bit.
 21 Q How long approximately were you there on the scene
 22 with that burning Jeep?
 23 A Not long. Not long at all.
 24 Q What did you do after you heard the child screaming?
 25 A After I heard the child screaming, I could see I

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1 **THE COURT:** If you can talk loud enough where
 2 everybody can hear him.
 3 **MR. JEB BUTLER:** Come on down. This won't take but a
 4 minute, Your Honor.
 5 (Witness steps down.)
 6 **BY MR. JEB BUTLER**
 7 Q Can you see up there on the screen, Mr. Butler?
 8 A Yes, I can.
 9 Q Do you see your name up there?
 10 A No, I do not.
 11 Q Do you know why Chrysler would put this slide in
 12 front of the jury but leave your name off?
 13 A No, I do not.
 14 Q All right. Have a seat, please.
 15 (Witness returns to the stand.)
 16 **BY MR. JEB BUTLER:**
 17 Q Have you talked to any of Chrysler's lawyers before
 18 today?
 19 A I talked to Mr. Kirbo.
 20 Q Did you tell him about what you heard on the scene?
 21 A I talked to him briefly about it.
 22 Q Now you mentioned a moment ago that the first thing
 23 you saw was a woman standing in the middle -- in the road
 24 saying there's a baby in the car. Do you remember that?
 25 A Right.

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1 Q Did you see anyone else on the scene?
 2 A I saw a man holding a woman.
 3 Q Did the man appear to be holding the woman back?
 4 A Right, holding her back.
 5 Q Did you know who they were?
 6 A No, I did not.
 7 Q Did you know -- were you able to identify or did you
 8 know the woman in the road that you saw when you first came up?
 9 A No.
 10 Q Is it possible that there were other people on the
 11 scene that you just didn't see?
 12 A Could have been, but I didn't see them.
 13 Q Did you wait around at the scene to talk to police?
 14 A No, I did not.
 15 Q Tell the jury why not, please.
 16 A I was on my way to work, and I did not want to see
 17 that vehicle blow.
 18 Q Why didn't you want to see the vehicle blow?
 19 A I just didn't want to see that. No, uh-uh.
 20 Q Did you ever contact the police after you left the
 21 scene?
 22 A No, I did not.
 23 Q Why not?
 24 A I just didn't.
 25 Q Is this event something that you enjoy talking

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1 a few minutes about our history.
 2 A Okay.
 3 Q We don't have one, do we?
 4 A Not that I know of.
 5 Q We've met one time?
 6 A One time.
 7 Q And that was on February the 22nd?
 8 A Right. Right.
 9 Q At the foot of the Lake Douglas bridge?
 10 A Right.
 11 Q In the dirt across from Grace church.
 12 A Right.
 13 Q And we met there because I -- I called you and asked
 14 you would you meet me?
 15 A Right.
 16 Q And I told you then that on the 22nd, that the case
 17 had been pending for two years, and on the 18th, we had -- you
 18 had been identified to us as a possible witness?
 19 A Right.
 20 Q And you and I had no arguments on that day, did we?
 21 A No. No, sir.
 22 Q And I didn't disrespect you in any way, did I?
 23 A No, sir.
 24 Q And we sat there in our blue jeans and we talked
 25 about what you saw?

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1 about --
 2 A No, no.
 3 Q -- or something you try to forget?
 4 A It was something I was trying to completely forget
 5 about.
 6 Q Did you ever actually see into the back of the
 7 burning Jeep there on the 97 connector, Boat Basin Road?
 8 A Say that again now.
 9 Q Could you ever actually see into the backseat of the
 10 Jeep there on the 97 connector?
 11 A No, I couldn't.
 12 **MR. JEB BUTLER:** Would you put up, please,
 13 Mr. Poston, Plaintiffs' Exhibit 4.
 14 **BY MR. JEB BUTLER**
 15 Q Can you see that on your screen?
 16 A I see it now.
 17 Q Mr. Butler, were the screams of a child that you
 18 heard coming from that Jeep that's shown in Plaintiffs'
 19 Exhibit 4?
 20 A Yes, it was.
 21 **MR. JEB BUTLER:** Thank you. No further questions.
 22 **THE COURT:** Mr. Kirbo?
 23 **CROSS-EXAMINATION**
 24 **BY MR. KIRBO**
 25 Q Mr. Butler, I'm Bruce Kirbo. And I want to talk just

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1 A Right.
 2 Q And you didn't leave there angry with me that day nor
 3 I with you that you know of, did we?
 4 A Right.
 5 Q All right. Now, I just want to ask you a few
 6 questions about that day, follow-up questions. Not the day
 7 that we met, but the day of the accident.
 8 A Okay.
 9 Q I think you told me that you routinely work two
 10 shifts, one in Chattahoochee for one of your employers --
 11 A Right.
 12 Q -- and another out at the air base at Shaw for
 13 another one of your employers?
 14 A Right.
 15 Q And you -- you connect that route, when you leave one
 16 place of business to go to work at the other place, you connect
 17 that route by going down 97 connector?
 18 A Right.
 19 Q And you told me that day that we met that you saw
 20 smoke coming out of the back of the vehicle, didn't you?
 21 A Right.
 22 Q And you recall me asking you whether or not you saw
 23 any flames, right?
 24 A Right.
 25 Q And you told me not as you could remember, didn't

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1 you?
2 A I didn't see any spark. You know, like little
3 flames.
4 Q Okay. And, now, since the time that you and I spoke
5 on the 22nd, we've not spoke again, have we?
6 A Right.
7 Q And I want to know how many different conversations
8 and how many different times you have talked with someone
9 associated with the Butler law firm since the 22nd. More than
10 five?
11 A No, probably twice.
12 Q And you've been here all morning, right?
13 A I got here about 11:00.
14 Q Have you talked to anybody from the Butler law firm
15 about your testimony today?
16 A No.
17 Q Have you talked with -- were you back in the back
18 with Ms. Kizzie Brown?
19 A Right.
20 Q Did you all talk about this case any?
21 A Not really.
22 Q Well, not really. Tell me a little bit about --
23 A I am not -- she just said she saw it. You know, I
24 was asking her about it a little bit.
25 Q Did she tell you what she saw?

614

1 Q In fact, what you told me was that you smelled gas,
2 right?
3 A Right.
4 Q And you knew that nothing good could come of it?
5 A Right.
6 Q And you -- as a matter of fact, let me ask you this.
7 What vehicles did you see parked on the scene?
8 A I can't remember.
9 Q You don't know -- you can't tell me about any vehicle
10 you saw there on the scene?
11 A All I remember seeing is the Jeep and my car. I
12 don't --
13 Q And you -- you -- you told me that you knew nothing
14 could come good of that gas smell and that smoke. And you
15 turned around and you hauled butt, right?
16 A Right.
17 Q And that's what you told me you did?
18 A Right.
19 Q Okay. And you didn't do anything -- your testimony
20 today is that you heard a child in the car?
21 A I heard a child.
22 Q You smelled some gas?
23 A Right.
24 Q But you just didn't try to do anything else but
25 leave?

616

1 A No. I told her I didn't want to know any details.
2 Q But she did tell you she saw it? Did she tell you
3 what she saw?
4 A I just asked her if she knew it was me.
5 Q What did she say?
6 A She said she don't remember me, and I don't remember
7 her.
8 Q All right. So you wanted -- you asked -- now, you
9 got a chance to look at her. Was that the same -- you
10 mentioned a black lady you saw. Was that the same black lady?
11 A I don't know. I can't say.
12 Q Well, when you talked to her about it back in the
13 room back there when you were sequestered, she didn't -- you
14 asked if she remembered seeing you on the scene, she said no?
15 A Right.
16 Q Now, so what you actually saw that day was some smoke
17 and maybe some little --
18 A Fire.
19 Q -- little sparks, didn't you?
20 A Fire.
21 Q You didn't see a car blow up?
22 A I did not see a car blow up.
23 Q You did not see a car that looked like that picture
24 that you just saw and all of those flames, did you?
25 A Right.

615

1 **MR. JEB BUTLER:** Your Honor, I object on the grounds
2 of relevance. Whether Mr. Butler approached the Jeep to
3 try to save the child has nothing do with this case.
4 Frankly, there's no doubt that this vehicle exploded.
5 That's not disputed.
6 **THE COURT:** I'm going to overrule the objection.
7 **BY MR. KIRBO**
8 Q Now, I want to just ask you about a couple of people.
9 You didn't speak to Tracy Anderson?
10 A No.
11 Q You didn't speak to Brandon Draper, right, on the
12 scene?
13 A No.
14 Q You didn't speak to Lesley Griffin?
15 A No.
16 Q You didn't speak to Bryan Harrell?
17 A No.
18 Q You didn't speak to Al, Al R. Kelley?
19 A No.
20 Q You didn't speak to Captain King?
21 A No.
22 Q You didn't speak to Trooper Walter Landrum?
23 A No.
24 Q You didn't spike to Ashley McMillan?
25 A No.

617

1 Q You didn't speak to Eric Miller?
 2 A No.
 3 Q You didn't speak to Eric Newsome?
 4 A No.
 5 Q You didn't speak to Trooper Brian Palmer?
 6 A No.
 7 Q You didn't speak to Daniel Strickland?
 8 A No.
 9 Q Doyle Welch?
 10 A No.
 11 Q Brandon Leathers?
 12 A No.
 13 Q Anybody with the EMS?
 14 A No.
 15 Q Did you see any law enforcement?
 16 A There was no law when I was there.
 17 Q All right. So you didn't speak to anybody from the
 18 fire department?
 19 A No, I did not.
 20 Q You didn't speak to Kizzie Brown?
 21 A No.
 22 Q You didn't speak to Andy McQuaid?
 23 A No.
 24 Q You didn't speak to Al Kelley?
 25 A No.

618

1 Q And you saw nobody in the vehicle?
 2 A Smoke.
 3 Q And you've not -- I mean, I think I know the answer,
 4 but you've not reported anything about this situation to
 5 anybody?
 6 A No.
 7 Q Now, do you know -- well, let me ask you this. Did
 8 you see anybody get out of the vehicle?
 9 A No.
 10 Q Do you know anybody whose last name is Stegall?
 11 A Yes, I do.
 12 Q All right. Tell me who you know named Stegall.
 13 A That's my supervisor's name.
 14 Q Supervisor where?
 15 A At Shaw.
 16 Q And you mentioned to him one day that -- you know,
 17 that you -- didn't you, that you travel from Chattahoochee at
 18 your job to Shaw at your job, right?
 19 A Right.
 20 Q And you mentioned to him one day that -- and --
 21 and -- and -- and -- and he told you, didn't he, that his
 22 wife -- I mean, his -- yeah, his wife was going to testify at
 23 this trial, didn't he?
 24 A He didn't tell me.
 25 Q Okay. Who told you?

620

1 Q Does it surprise you that your picture didn't show up
 2 on any still photograph or any video from that day?
 3 A No, it don't.
 4 Q Do you know anything about the travel -- which
 5 direction the Jeep was traveling before the wreck took place?
 6 A No.
 7 Q Do you know anything about how the Jeep wrecked?
 8 A No.
 9 Q All right. Now, do you know Lesley Griffin?
 10 A No.
 11 Q Do you know -- I know you were back there talking to
 12 her about it, talking to her, you know Kizzie Brown, right?
 13 A I've seen her today.
 14 Q Okay. Did you know her before today?
 15 A No.
 16 Q Tracy Anderson?
 17 A No.
 18 Q Okay. Now, how close did you get to that vehicle?
 19 A I got pretty close. Pretty close.
 20 Q Which doors were open?
 21 A I got on the -- I was on the driver's side.
 22 Q Okay. Which doors were open on the driver's side?
 23 A I don't remember.
 24 Q How about the windows?
 25 A I don't remember.

619

1 A I was talking to her.
 2 Q And that's when -- when your boss's wife was going to
 3 testify at trial, that's when you -- this story got a little
 4 bit different, didn't it?
 5 A What you mean?
 6 Q Well, I mean, you testified a little bit earlier you
 7 saw these flames. I mean, you didn't see -- you didn't see
 8 that, did you?
 9 A I saw smoke and fire.
 10 **MR. KIRBO:** Okay.
 11 **THE COURT:** Mr. Butler?
 12 **MR. JEB BUTLER:** Thank you, Your Honor.
 13 **MR. BICKNESE:** Your Honor?
 14 **THE COURT:** I'm sorry, Mr. Bicknese. I was looking
 15 at Mr. Butler.
 16 **CROSS-EXAMINATION**
 17 **BY MR. BICKNESE:**
 18 Q When you got to the scene, there were already people
 19 there, weren't there?
 20 A I don't remember seeing no one.
 21 Q Well, you saw the black lady?
 22 A Yes, the black lady.
 23 Q You knew the situation was going to be taken care of
 24 didn't you?
 25 A Right.

621

1 Q And you didn't talk to all these people with
2 Mr. Kirbo because you didn't see them or you wanted to get out
3 of there because your instinct was to get out of there, it was
4 a bad situation that was going to happen?
5 A Right.
6 Q And the voices you heard -- the child's voice that
7 you heard, that was coming from the burning vehicle?
8 A Right.
9 Q And there were already flames on the vehicle when you
10 heard the voice, weren't there?
11 A Right.
12 MR. BICKNESE: Thank you.
13 THE COURT: Mr. Butler?
14 MR. JEB BUTLER: Thank you, Your Honor.
15 **REDIRECT EXAMINATION**
16 **BY MR. JEB BUTLER:**
17 Q Mr. Butler, Chrysler's lawyer asked you a bunch of
18 questions about -- actually accused you of making stuff up. Do
19 you remember that question?
20 A Yes.
21 Q Did you make anything up today?
22 A No.
23 Q Did I ever ask you to make anything up?
24 A No, you did not.
25 Q Chrysler's lawyer asked you a bunch of questions

622

1 Q Did you actually meet with him?
2 A Right.
3 Q If he called you again, would you have ignored his
4 calls or would you have taken his calls just like you and I
5 talked?
6 A I would have took his call.
7 Q Chrysler's lawyer asked you a lot of questions about
8 the degree -- the intensity of the fire that you saw. Do you
9 recall those questions?
10 A Right.
11 Q Is there any doubt in your mind that there was a fire
12 on that Jeep?
13 A No, there's not.
14 Q Have you ever heard anyone claim that the Jeep didn't
15 burn up in flames?
16 A No, I haven't.
17 Q Can you think of any reason why Mr. Kirbo would be
18 asking you about how hot the fire was at some certain time?
19 A No, I can't.
20 Q Where did the fire start, if you know?
21 A I assume in the back.
22 Q When you saw the fire, what did --
23 A It was in the back.
24 Q In the back?
25 A Right.

624

1 about these Stegalls. Tell the jury, if you will, how you and
2 I first came to talk.
3 A I was at my second job, which is Shaw, and I was --
4 Donna came, Stegall, Mrs. Stegall came to me and was talking to
5 me and talking about, you know, she had to go to trial, and she
6 brought my name up to you.
7 Q Did she bring you my phone number written on a
8 business card?
9 A Yes.
10 Q And then what did you do?
11 A About an hour later, I called you once I got caught
12 up at work.
13 Q You called me?
14 A Right.
15 Q That's the first time we ever talked?
16 A First time we ever talked.
17 Q Now, Mr. Kirbo tried to go into great detail about
18 the number of times that you and I spoke. Do you recall those
19 questions?
20 A Right.
21 Q Did there come a day when Chrysler's lawyer,
22 Mr. Kirbo, called you up?
23 A Right.
24 Q Did you talk to him?
25 A Right.

623

1 Q Chrysler's lawyer asked you about a list of names,
2 and I wrote as many down as I could. Tracy Anderson,
3 Brandon Draper, Bryan Harrell, Al Kelley, Captain Kenny King,
4 Walt Landrum, Eric Miller, Daniel Strickland, Brennan Leathers,
5 Andy McQuaid. Did you know any of those people?
6 A No, I do not.
7 Q Why do you think -- or if you know, why would
8 Chrysler be asking you whether you talked to any of those
9 folks?
10 A I don't know.
11 Q Do you know -- do you know whether they were on the
12 scene at all?
13 A Don't have no clue.
14 Q Do you know anyone called Eric Newsome?
15 A No.
16 Q I'm not even sure that person exists. Do you know
17 one way or the other?
18 A No, I do not.
19 Q Chrysler's lawyer asked you what other vehicles you
20 remembered on the scene of this wreck. Do you recall that
21 question?
22 A Yes, I do.
23 Q How long ago -- how long has it been since this wreck
24 occurred?
25 A About three years.

625

1 Q Can you think of any reason why it's important what
2 vehicles you recall seeing on the scene of this wreck?
3 A No, I cannot.
4 Q You were asked some questions about the details of
5 who -- by the time you arrived on the scene, had the wreck
6 already occurred or did you see the wreck as it happened?
7 A It had already occurred.
8 Q Why couldn't you see anybody in the Jeep Grand
9 Cherokee as it was burning?
10 A It was smoking.
11 Q Hang on just a second.
12 Mr. Butler, you talked about tears in your eyes. Do
13 you remember that?
14 A Right.
15 Q Tell the jury why there were tears in your eyes.
16 A Because I heard -- I heard the child hollering, and
17 then I couldn't do nothing for him.
18 MR. JEB BUTLER: Thank you. No further questions.
19 THE COURT: Mr. Kirbo?
20 MR. KIRBO: Very briefly, Your Honor.
21 **REXCROSS EXAMINATION**
22 **BY MR. KIRBO:**
23 Q Mr. Butler, you did not then see a fire in the road?
24 A In the road?
25 Q Yes, sir.

626

1 A Right.
2 Q On that day when you decided to leave -- and listen,
3 I know that's a -- that's a tough -- that's a tough call for
4 you. It was tough, wasn't it?
5 A Yeah.
6 Q You didn't even push 9-1-1, did you?
7 A No, I did not.
8 Q And the vehicle wasn't enflamed inside the vehicle?
9 A Smoke.
10 Q And you heard a child?
11 A Right.
12 Q And you didn't push 9-1-1?
13 A No, I did not.
14 MR. BICKNESE: Nothing further from us.
15 THE COURT: Mr. Butler?
16 MR. JEB BUTLER: Very briefly.
17 **FURTHER REDIRECT EXAMINATION**
18 **BY MR. JEB BUTLER:**
19 Q Mr. Butler, did you assume someone had already called
20 9-1-1? For instance, the woman you saw when you first arrived
21 on the scene?
22 A I heard -- I assumed someone had already called them.
23 I met them when I turned around.
24 MR. JEB BUTLER: Thank you. That's all I have.
25 THE COURT: Mr. Kirbo?

628

1 A No.
2 Q You didn't see a fire in the road?
3 A I saw a fire on the Jeep.
4 Q Did you see any evidence of there being a fire in the
5 road?
6 A No, didn't see none.
7 Q And -- and, Mr. Butler, I apologize to you. I really
8 was not listening like I should. Tell me how close you got to
9 that vehicle again.
10 A Pretty close. Pretty close.
11 Q Were you closer than -- did you get closer than the
12 lady that you've identified as a black lady and the white lady?
13 Did you get closer?
14 A I got really close. I can't say because I don't know
15 how close they was, but I got close.
16 Q Now, you -- did you go on to work?
17 A Yes, I did.
18 Q So you didn't like have any breathing issues or soot
19 issues or anything like that?
20 A No, I did not.
21 Q Okay. When I -- when I communicated with you the
22 other day, I believe you were coming from out there at church
23 or -- is that right? I called you on the 22nd and we met?
24 A Right.
25 Q I called you on a cell phone, right?

627

1 MR. KIRBO: No, sir.
2 THE COURT: Mr. Bicknese?
3 MR. BICKNESE: No, sir.
4 THE COURT: You may step down, sir.
5 MR. JEB BUTLER: May this witness be excused,
6 Your Honor?
7 THE COURT: Any objection, Mr. Kirbo?
8 MR. KIRBO: Can I have just a second?
9 THE COURT: Sure.
10 MR. KIRBO: He may be excused.
11 THE COURT: Any objection, Mr. Bicknese?
12 MR. BICKNESE: No objection.
13 THE COURT: You're excused, sir.
14 (Witness excused.)
15 THE COURT: Call your next witness, Mr. Butler.
16 MR. JEB BUTLER: Plaintiffs call Kizzie Brown,
17 Your Honor.
18 Thereupon,
19 **KIZZIE BROWN**
20 was called as a witness, having been first duly sworn, was
21 examined and testified as follows:
22 THE COURT: Be seated, ma'am.
23 **DIRECT EXAMINATION**
24 **BY MR. JEB BUTLER:**
25 Q Please introduce yourself to the jury.

629

1 A Kizzie Brown.
 2 Q Where do you live, Ms. Brown?
 3 A Bainbridge, Georgia.
 4 Q Do you remember on March 6, 2012, coming up on a car
 5 wreck that involved a burning vehicle?
 6 A Yes, sir.
 7 Q Tell us, if you would, where you were when you first
 8 learned that there had been a wreck.
 9 A At Quick Buys on Faceville Highway.
 10 Q What did you see?
 11 A Flames in the road.
 12 Q What were you doing at the Quick Buy?
 13 A Getting something to drink.
 14 Q Who were you with at the time?
 15 A Tracy Anderson and Lesley Griffin.
 16 Q And what did you do once you saw the flames?
 17 A We went up there, and that's when we seen that there
 18 had been a wreck.
 19 Q Did you go up there in a car?
 20 A Yes, sir.
 21 Q Was it a green Expedition?
 22 A Yes, sir.
 23 Q When you got near the wreck, did you get out of the
 24 car?
 25 A Yes, sir.

630

1 A Yes, sir.
 2 Q What did the screaming sound like? Was it quiet or
 3 was it loud?
 4 A Loud.
 5 Q Could you tell what the boy was saying or could you
 6 just hear screaming?
 7 A Just he was screaming.
 8 Q What did you do next?
 9 A I ran around to the passenger side trying to get him
 10 out, but I couldn't get him out.
 11 Q How close to the Jeep did you get when you were
 12 trying to get him out?
 13 A I was on the Jeep.
 14 Q Could you see the boy who was inside the Jeep?
 15 A Yes, sir.
 16 Q What did he look like?
 17 A He was a white little baby.
 18 Q Okay. Tell us what he was doing.
 19 A Standing up like with his hand around the passenger
 20 seat.
 21 Q Was he screaming then?
 22 A Yes, sir.
 23 Q Could you -- could you see any part of him burning?
 24 A Sir?
 25 Q Could you see any part of him burning at the time?

632

1 Q Tell the jury, please, what you saw when you got out
 2 of the car.
 3 A The truck was on the right side, the Cherokee, Jeep,
 4 was on the left side in the ditch.
 5 Q What was going on with the Cherokee in the ditch?
 6 A It was on fire.
 7 Q What did you do?
 8 A When we got there, the auntie got out -- jumped out
 9 the window and she went to the driver's back side trying to get
 10 him out, but she couldn't.
 11 Q Let me stop you right there just so we'll be clear.
 12 Are you saying that you saw someone get out of the driver's
 13 side of the Jeep?
 14 A Yes, sir.
 15 Q Do you understand that person to have been the auntie
 16 of the boy who was inside the Jeep?
 17 A Yes, sir.
 18 Q Okay. Go back. Tell us what you saw her do.
 19 A She jumped out the truck, went to the back door on
 20 the driver's side trying to get him out.
 21 Q Was the Jeep on fire at that time?
 22 A Yes, sir.
 23 Q Could you hear anything?
 24 A The baby was screaming.
 25 Q Do you mean the boy who was in the burning Jeep?

631

1 A Yes, sir.
 2 Q Tell the jury what that was.
 3 A His elbow was on fire.
 4 Q When you saw that, were you at the passenger side of
 5 the Jeep?
 6 A Yes, sir.
 7 Q Was there any glass between you and the boy who was
 8 inside the Jeep?
 9 A Not that I could recall.
 10 Q Based upon your recollection, was the window either
 11 down or broken out by the collision?
 12 A Yes, sir.
 13 Q Tell us what the fire was like when you were up there
 14 trying to get the boy out of the Jeep.
 15 A It was red. The only thing you could see was like
 16 smoke.
 17 Q Could you see down to where the boy's waist and feet
 18 were or was that hidden by fire and smoke?
 19 A It was hidden by fire and smoke.
 20 Q Could you feel the heat from the fire?
 21 A Yes, sir.
 22 Q Was it intense?
 23 A Yes, sir.
 24 Q Did there come a time where you had to move back from
 25 the Jeep?

633

1 A Yes, sir.
2 Q Were you able to get the boy out?
3 A No, sir.
4 Q Why did you have to move back from the Jeep?
5 A We heard a loud explosion.
6 Q Okay. Did the fire and the explosion force you back?
7 A Yes, sir.
8 Q Where did you go?
9 A In the road.
10 Q When you got to the road, could you still hear
11 anything coming from the Jeep?
12 A Yes, sir.
13 Q What did you hear?
14 A Him still screaming.
15 Q Were you ever able to get back that close to the Jeep
16 again?
17 A Yes, sir.
18 Q Tell us what happened next.
19 A We tried to get him -- get him out, but we still
20 couldn't get him.
21 MR. JEB BUTLER: Would you show Plaintiffs' Exhibit
22 No. 4, please, Mr. Poston.
23 BY MR. JEB BUTLER
24 Q I'm going to show you an exhibit, Ms. Brown. That
25 should pop up on your screen there.

634

1 Q Were there a lot of people eventually on the scene of
2 this wreck?
3 A Not that I can recall.
4 Q Well, do you think you saw everyone who was on the
5 scene of this wreck or is it possible there were some people
6 there who you didn't see for one reason or another?
7 A Some people that I didn't see.
8 Q Say that one more time, please.
9 A I didn't see some people.
10 Q Were you focused on the Jeep and trying to get the
11 boy out?
12 A Yes, sir.
13 Q Was it impossible to see everything that was going on
14 at one time?
15 A Sir?
16 Q Was it difficult to tell everything that was going on
17 at the scene at one time when you were focused on the boy?
18 A Yes, sir.
19 Q Did you stay on the scene and talk to authorities
20 when they got there?
21 A Yes, sir.
22 Q Where did you go after you left the scene of this
23 wreck?
24 A To the emergency room.
25 Q Why?

636

1 Did the fire and the Jeep eventually get to where it
2 looked like that in Plaintiffs' Exhibit 4?
3 A Yes, sir.
4 Q Was that why it was too intense for you to go back
5 and try again to help the boy?
6 A Yes, sir.
7 Q Did the police eventually come?
8 A Yes, sir.
9 Q By the time the police got there, was the boy in the
10 Jeep still screaming?
11 A No, sir.
12 Q I'd like to ask you some questions about some other
13 people who may have been there at the wreck. I'll call it the
14 scene of the wreck, but I just mean the area where the wreck
15 was. Did you see the driver of the pickup truck,
16 Mr. Bryan Harrell, that ran into the Jeep?
17 A Yes, sir. He was standing in the road.
18 Q Did you see him do anything?
19 A Yes, sir.
20 Q Tell us what he did.
21 A He tried to help her.
22 Q Did he run toward the burning Jeep?
23 A Yes, sir.
24 Q Did he try to help the boy who was trapped inside?
25 A Yes, sir.

635

1 A I had to be shot for a panic attack.
2 Q Say that one more time?
3 A I had to go to the emergency room. They gave me a
4 shot.
5 Q Was it for a panic attack?
6 A Yes, sir.
7 Q Did you talk to anybody while you were at the
8 emergency room?
9 A Yes, sir.
10 Q Did you try to talk to the family of the boy who --
11 A I talked to the grandmother.
12 Q Tell us what you said, please.
13 A She came to me after I got upstairs in the room where
14 my mother was. She was telling me she was -- she was thanking
15 me for trying to save him and stuff.
16 Q Ms. Brown, is this -- is that day, March 6, 2012,
17 something that's difficult and unpleasant for you to come back
18 and have to talk about?
19 A Yes, sir.
20 Q I have not asked as we've been talking about the
21 wreck for lots of exact distances or exact times, like in feet
22 or in minutes. When you were out there, did it seem like
23 everything was happening pretty fast?
24 A Yes, sir.
25 Q If I was to ask you for exact times or exact

637

1 distances or exactly where people were standing, is that
2 something you think you would be able to tell me?
3 **A** No, sir.
4 **Q** Do you know one way or another exactly how long
5 Remington Walden, the boy in the Jeep, lived after the impact
6 occurred?
7 **A** No, sir.
8 **Q** Have you ever been back, Ms. Brown, to the scene of
9 that wreck?
10 **A** Yes, sir.
11 **Q** When, most recently?
12 **A** The same day.
13 **Q** What did you do?
14 **A** Put some tennis balls.
15 **Q** Where did you put them?
16 **A** On his grave.
17 **Q** Why?
18 **A** Sir?
19 **Q** Why? Why did you put tennis balls on the memorial,
20 Ms. Brown?
21 **A** Because when I first went, that's what I seen on
22 there.
23 **Q** Did you know he was on his way to tennis practice at
24 the time of the wreck?
25 **A** No, sir.

638

1 **Q** Let me show you Exhibit 38. Can you see that on your
2 screen, ma'am?
3 **A** No, sir.
4 **Q** You can't? All right. Do you want to --
5 **MR. BRANTLEY:** Is there a way to put it on her
6 screen?
7 **MR. POSTON:** I'd have to rewire.
8 **THE COURT:** She can step down. But, ma'am, you're
9 soft spoken. You need to talk loudly.
10 **THE WITNESS:** Yes, sir.
11 **THE COURT:** Where everybody can hear you, okay?
12 **THE WITNESS:** Yes, sir.
13 **MR. BELL:** And I only have a couple of questions for
14 you about this exhibit.
15 **THE WITNESS:** It's on there.
16 **BY MR. BRANTLEY:**
17 **Q** It's on there now? All right. If we look at this
18 photograph, it shows an intersection with two roads. And the
19 road here is -- that's Hubert Dollar Road; is that right?
20 **A** Yes, sir.
21 **Q** And then the long road going across the photograph,
22 that's old Quincy Highway?
23 **A** Yes, sir.
24 **Q** And if I understand where the Quick Buys is, it's
25 down the road -- it's not showing on this photograph, but it's

640

1 **Q** Ms. Brown, you may not know this. Chrysler has hired
2 a -- someone out of Montana to say that Remington Walden died
3 the moment of the collision and was not alive in the fire. Is
4 that true?
5 **A** No, sir.
6 **Q** When you saw Remington Walden and heard
7 Remington Walden, is there any doubt that he was alive in the
8 fire?
9 **A** Yes, sir.
10 **Q** He was alive in the fire?
11 **A** Yes.
12 **MR. JEB BUTLER:** Thank you. That's all the questions
13 I have.
14 **THE COURT:** Mr. Brantley?
15 **CROSS-EXAMINATION**
16 **BY MR. BRANTLEY:**
17 **Q** Good afternoon, Ms. Brown. I'm Terry Brantley, and I
18 have a few follow-up questions. I know it's difficult for you
19 to cover these issues, but I do have a few questions that I'd
20 like to ask for the benefit of the jury. All right?
21 **A** Yes, sir.
22 **Q** First I want to ask you: Did you see the accident?
23 **A** No, sir.
24 **Q** You were down at the Quick Buys store?
25 **A** Yes, sir.

639

1 down in this area?
2 **A** Yes, sir.
3 **Q** Is that right?
4 And it's probably a quarter mile, half mile away from
5 where this happened; is that about right?
6 **A** Can't recall.
7 **Q** And after the accident happened, you got in your car
8 at some point and you drove to the accident site; is that
9 right?
10 **A** I didn't drive.
11 **Q** Oh, you were in a car?
12 **A** I was in the car.
13 **Q** And you were in the car with two individuals,
14 Tracy Anderson and Lesley Griffin?
15 **A** Yes, sir.
16 **Q** And my recollection from your deposition testimony is
17 that it took you three to five minutes to get from the Quick
18 Buys to the accident site. Is that your recollection?
19 **A** I can't recall.
20 **Q** You don't remember?
21 **A** No, sir.
22 **Q** When you arrived, it's your testimony that
23 Emily Newsome Avery got out of the window of the Jeep Grand
24 Cherokee?
25 **A** Yes, sir.

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1 Q And it's your testimony that she was actually able to
2 open the back door on the driver's side and get in that
3 vehicle?
4 A Yes, sir.
5 Q It was also your testimony Tracy Anderson, who was
6 with you, went to the driver's side of this vehicle?
7 A Yes, sir.
8 Q And it was your testimony that Lesley Griffin, who
9 was with you, went to the passenger side of this vehicle?
10 A Yes, sir.
11 Q And you went to the passenger side with
12 Lesley Griffin?
13 A Yes, sir.
14 Q And that you recall that Remi Walden was in a
15 full-sized car seat, the one that straps in the middle and down
16 between the legs? Is that your --
17 A I can't recall.
18 Q In your deposition, you were asked if he was in a
19 booster seat or a full-sized car seat. Do you remember being
20 asked that in your deposition?
21 A Sir?
22 Q Do you remember being asked whether he was in a
23 booster seat or a full-sized car seat when you were at -- at
24 your deposition?
25 A I don't remember.

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1 A No, sir.
2 Q Correct?
3 A Yes, sir.
4 Q So when you arrived, you didn't see Andy McQuaid? Do
5 you know who that is, Andy?
6 A No, sir.
7 Q You didn't see Al Kelley?
8 A I don't know who that is.
9 Q Do you know Jerry Butler? Do you know who he is?
10 A No, sir.
11 Q Did you speak to Jerry Butler today?
12 A Yes, sir.
13 Q You talked to him about this accident?
14 A No, sir.
15 Q You didn't ask him about what he saw at the scene; he
16 didn't ask you about what you saw at the scene?
17 A No, sir.
18 Q Correct?
19 A Correct.
20 Q And, now, your testimony is you actually went to the
21 Jeep itself, right?
22 A Yes, sir.
23 Q Did you ever read Lesley Griffin's deposition
24 testimony, one of the individuals who was with you on the day
25 of the accident?

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1 MR. BRANTLEY: Let's take a -- do you have her
2 deposition, Your Honor, or does anybody have an objection
3 to me using the transcript here? Mr. Butler?
4 MR. JEB BUTLER: It's fine with me to use the
5 transcript.
6 BY MR. BRANTLEY
7 Q I'm trying to find the page here, Ms. Brown. I
8 apologize.
9 All right. If you look, can you see the -- see it on
10 your screen, ma'am?
11 A No, sir.
12 Q I'll read it to you. It's on page 56 of your
13 deposition. And you were asked at line 7: "What kind of car
14 seat did you see?"
15 And you said: "One of the -- not the booster, but
16 the other car seat."
17 And then down at question -- or line 21, it says:
18 "The one that buckles across his chest and up between his
19 legs?"
20 And you said: "Yes."
21 Do you recall that? That still doesn't ring a bell?
22 A No, sir.
23 Q All right. And, now, it was also your testimony that
24 when you got to the scene, you were the first vehicle to
25 arrive; is that right? There was nobody else there?

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1 A No, sir.
2 Q If she testified under oath that you never went to
3 the Jeep, would you disagree with in that?
4 MR. JEB BUTLER: Your Honor, I object on the grounds
5 of hearsay. He can't impeach Ms. Brown with a deposition
6 transcript of somebody else.
7 THE COURT: Well, I'm going to sustain the objection
8 as it's phrased.
9 BY MR. BRANTLEY:
10 Q All right. If Ms. Lesley Griffin said you never went
11 to the Jeep, would you disagree with that?
12 A Yes, sir.
13 Q And if Mr. Harrell testifies that no one ever got to
14 the Jeep, would you disagree with that?
15 A Yes, sir.
16 Q And if Mr. Andy McQuaid provides testimony in this
17 case that nobody ever got to the Jeep, that he was the first
18 one on the scene, would you disagree with that?
19 MR. JEB BUTLER: Your Honor, that is a misstatement
20 of testimony, and Chrysler's lawyer knows that. That is
21 not what McQuaid said. It's also hearsay and improper
22 impeachment.
23 THE COURT: Well I have no way of knowing whether or
24 not. I'm going to overrule the objection.
25 MR. BRANTLEY: Overrule the objection?

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1 **THE COURT:** Yes, sir.
2 **BY MR. BRANTLEY**
3 **Q** Ma'am?
4 **A** Sir?
5 **Q** If Mr. Andy McQuaid testifies in this court that he
6 was the first on the scene, would you disagree with that?
7 **A** I don't know who that is.
8 **Q** And you don't know about what Mr. Al Kelley's
9 testimony is in this case either, do you?
10 **A** No, sir.
11 **Q** And I take it the same would hold true with respect
12 to what was heard at the scene. If Mr. McQuaid says that he
13 didn't hear any sounds coming from the vehicle, that's
14 something you'd disagree with?
15 **A** Yes, sir.
16 **MR. JEB BUTLER:** Your Honor, that calls for
17 speculation. Ms. Brown has no way of knowing what Mr. --
18 I forget which witness this was, did or did not hear. The
19 question was whether Ms. Brown would disagree with the
20 other witness who says that the other witness didn't hear
21 anything. And she's got no way --
22 **THE COURT:** I don't think that was the question. I
23 thought the question was if she disagrees if he said he
24 didn't hear it.
25 **MR. BRANTLEY:** That's right. That's right,

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1 **Q** And I understand that the day of the accident, you
2 actually received some treatment because it shook you up;
3 correct?
4 **A** Yes, sir.
5 **Q** You had an anxiety attack; right?
6 **A** Yes, sir.
7 **Q** Do you think that might affect the way that you
8 recall what happened on that day?
9 **A** No, sir.
10 **MR. BRANTLEY:** All right. Thank you, ma'am.
11 **MR. BICKNESE:** I'm over here.
12 **CROSS-EXAMINATION**
13 **BY MR. BICKNESE**
14 **Q** I mean, this was a panic situation, wasn't it? When
15 you got there, it was high stress. Everything was going crazy,
16 wasn't it?
17 **A** Yes, sir.
18 **Q** And when you got there, you weren't focused on who
19 else was there or what anybody else was doing or whether or not
20 other people heard certain things or saw certain things. You
21 were worried about getting that baby out of that car, weren't
22 you?
23 **A** Yes, sir.
24 **Q** That was your only focus?
25 **A** Yes, sir.

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1 Your Honor.
2 **MR. JEB BUTLER:** Well, I think we're
3 miscommunicating. Ms. Brown can't know what some other
4 witness did or did not hear.
5 **THE COURT:** Correct.
6 **MR. JEB BUTLER:** Now, if there were another witness
7 who testified that there was no screaming, they were
8 certain of that, then Mr. Brantley can ask about that.
9 But there is no such witness. I mean, that person doesn't
10 exist.
11 **MR. BRANTLEY:** We don't get to call the witnesses or
12 the order of the witnesses, Your Honor. These are
13 witnesses --
14 **THE COURT:** I'm going to overrule the objection.
15 **MR. BRANTLEY:** All right. Thank you.
16 **BY MR. BRANTLEY:**
17 **Q** Ms. Brown?
18 **A** Sir?
19 **Q** You disagree with that, if somebody else comes in and
20 says they didn't hear anything coming from that vehicle, no
21 sound?
22 **A** I heard it.
23 **Q** And that would be true with respect to Al Kelley,
24 Andy McQuaid, and Mr. Harrell, right?
25 **A** Yes.

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1 **Q** You weren't paying attention to what anybody else was
2 doing. It was you and that baby and your attempts to try and
3 get that baby out of that car?
4 **A** Yes, sir.
5 **Q** And it was such a stressful situation that you had to
6 go to the hospital afterwards to get a shot; isn't that right?
7 **A** Yes, sir.
8 **MR. BICKNESE:** All right. Thank you, ma'am.
9 **THE COURT:** Mr. Butler?
10 **MR. JEB BUTLER:** Nothing further, Your Honor.
11 **THE COURT:** Mr. Brantley, anything further?
12 **MR. BRANTLEY:** Nothing further, Your Honor.
13 **THE COURT:** You may step down, ma'am.
14 **MR. JEB BUTLER:** May the witness be excused,
15 Your Honor?
16 **THE COURT:** Any objection, Mr. Brantley?
17 **MR. BRANTLEY:** No, Your Honor.
18 **THE COURT:** Any objection, Mr. Bicknese, that she be
19 excused?
20 **MR. BICKNESE:** Absolutely not.
21 **THE COURT:** You're excused, ma'am.
22 (Witness excused.)
23 **THE COURT:** Call your next witness, Mr. Butler.
24 **MR. JEB BUTLER:** Plaintiffs call Mr. Brian Palmer,
25 Your Honor.

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1 **THE COURT:** Mr. Palmer, remain standing and raise
2 your right hand.
3 Thereupon,
4 **BRIAN PALMER**
5 was called as a witness, having been first duly sworn, was
6 examined and testified as follows:
7 **THE COURT:** Please be seated.
8 **DIRECT EXAMINATION**
9 **BY MR. JEB BUTLER:**
10 **Q** Introduce yourself to the jury, please, sir.
11 **A** My name is Brian Palmer.
12 **Q** What do you do for a living?
13 **A** I work for the Georgia State Patrol, post 14,
14 Colquitt.
15 **Q** How long have you had that job?
16 **A** About seven-and-a-half years.
17 **Q** What did you do before you were a trooper?
18 **A** I worked two years for the City of Bainbridge.
19 **Q** What were you doing for the City of Bainbridge?
20 **A** Police officer and firefighter.
21 **Q** Have you been trained both as a police officer --
22 well, have you been trained as a police officer, state trooper,
23 and firefighter?
24 **A** Yes.
25 **Q** Tell us a bit about -- do you have to go through

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1 part of your job?
2 **A** Yes, sir, I do.
3 **Q** How many car wrecks do you think you've been to since
4 you became first a police officer with the city and now a state
5 trooper?
6 **A** Close to a thousand or more.
7 **Q** In your experience, Trooper Palmer, how common is it
8 for a car to burst into flames after it's been rear ended?
9 **A** It's not common at all.
10 **Q** How many times have you seen -- how many wrecks have
11 you been to where that happened?
12 **A** One.
13 **Q** What wreck was that?
14 **A** The wreck that we are here on, March 6.
15 **Q** March 6, 2012?
16 **A** Yes, sir.
17 **Q** Where were you when you first heard about the wreck
18 we're here on today, on March 6, 2012?
19 **A** Here in the parking lot of the courthouse.
20 **Q** How did you hear about it?
21 **A** I heard Decatur County 911 dispatch to crash.
22 **Q** And what did you do when you heard the dispatch from
23 Decatur County 911?
24 **A** I turned my car around in the parking lot and
25 proceeded to the crash.

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1 classes to become trained as a trooper and a police officer?
2 **A** Yes, sir. Basically the mandate with the city is 12
3 weeks, and trooper school is 33 weeks.
4 **Q** When you were being trained for those things, did you
5 learn about going to car wrecks?
6 **A** Yes, sir.
7 **Q** Did you learn what to look for when you go to a car
8 wreck?
9 **A** Yes, sir, I did.
10 **Q** Have you had any classes in accident reconstruction?
11 **A** Yes, sir. During trooper school, we have accident on
12 the scene 1, 2 and 3, which is three weeks long. And after you
13 graduate trooper school, I've been to accident reconstruction
14 classes, levels 1, 2, and 3.
15 **Q** I'm not going to ask you a lot of questions along
16 this line, but tell the jury just real quick what is accident
17 reconstruction.
18 **A** It's you take the evidence of the crash before it
19 happens until after it happens, and you put it all together to
20 figure out what happened. How the crash occurred.
21 **Q** What about being trained in terms of a firefighter?
22 Did you have to go to classes in order to be -- to receive that
23 training?
24 **A** Yes, sir. I've done four weeks of firefighting.
25 **Q** Do you regularly go to the scene of car wrecks as

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1 **Q** Tell us how you got there from here.
2 **A** Pulled out of the parking lot on this side of the
3 courthouse on West Street, headed south to Shotwell Street,
4 turned west onto Shotwell Street until I come up to the scene
5 of the crash.
6 **Q** What did you see when you got there?
7 **A** When I pulled up, on the right side of the road, on
8 the north shoulder, I seen a vehicle that was on fire. I got
9 out of my patrol car, started walking up, and noticed a black
10 Dodge Dakota on the south side of the road.
11 **Q** When you first saw the Jeep on fire, was the fire
12 mostly in the front or mostly in the back?
13 **A** In the rear.
14 **Q** Were you able to figure out in just very basic terms
15 how the wreck happened?
16 **A** Yes, sir. I noticed as I was walking up, the debris
17 and the marks in the roadway and everything, I noticed that the
18 Dodge Dakota rear ended the Jeep.
19 **Q** Did you talk to anybody at the scene of this wreck?
20 **A** Yes, sir, I did.
21 **Q** Who did you talk to first?
22 **A** The first person I talked to was Emily Newsome.
23 **Q** Did you know Emily?
24 **A** Yes, sir.
25 **Q** How?

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1 A I went to school with her. She's the sister of my
2 cousin and best friend's wife.
3 Q Is she now Emily Newsome Avery?
4 A She is.
5 Q Tell us how she looked when you first saw her and
6 what she was doing.
7 A She -- she ran up to me. She was very hysterical.
8 Screaming at the top of her lungs. I didn't really recognize
9 her at first. I had to kind of push her off of me due to the
10 right side of her hair was singed.
11 Q Why didn't you recognize her at first?
12 A I was talking on the radio telling city, the fire
13 department, what to be expected and what they needed once they
14 got on scene. And she come over from my right side -- or left
15 side, excuse me. And she basically bear-hugged me screaming.
16 I couldn't understand what she was saying. So that's when I
17 kind of pushed her off of me to look at her again and realized
18 it was Emily.
19 Q I think you said her hair was singed?
20 A Yes, sir, on the right side.
21 Q Was there any soot on her or anything like that?
22 A Yes, sir, there was some black soot on the right side
23 of her face also.
24 Q What was she saying?
25 A After about the third time of her screaming and me

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1 Q Describe at the time you -- you say that you put
2 Emily in your car?
3 A Yes, sir.
4 Q Emily Newsome. Describe the fire for us. How did it
5 look and sound at about that time?
6 A Very hot, crackling, real loud crackling noise. The
7 shocks in the tire were popping. The popping noise sounds
8 similar to a gunshot going off.
9 Q What is it that makes that sound similar to a gunshot
10 going off?
11 A The air and gas inside the tires and the shocks.
12 When it gets so hot, it pops.
13 Q Do they explode?
14 A Yes, sir.
15 MR. JEB BUTLER: Pull up, Mr. Poston, Plaintiffs' 4,
16 please.
17 MR. POSTON: Yes, sir.
18 BY MR. JEB BUTLER
19 Q This should show up on the screen in front of you.
20 Does Plaintiffs' Exhibit 4 accurately and fairly depict the
21 fire that you saw in the Jeep that day?
22 A Yes, sir, it does.
23 Q I notice there's a light pole next to the Jeep. Do
24 you recall that?
25 A Yes, sir.

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1 not understanding, she said, Brian, Remi is out in the car.
2 Q Did she say what she had done?
3 A She said that she tried to get him out, but couldn't.
4 Q I think you just referred to the boy in the Jeep as
5 Remi. Is that what you knew him by?
6 A Yes, sir.
7 Q How did you know him?
8 A His dad and I are really good friends. Been friends
9 all through school. I ended up marrying his first cousin.
10 Q What did you do once you realized who it was that was
11 in the burning Jeep?
12 A I grabbed ahold to her and consoled her and moved her
13 away from the fire.
14 Q Now, did you run -- by the time you arrived, was the
15 fire going pretty good?
16 A Yes, sir.
17 Q Did you run down to the Jeep to try to get Remington
18 out?
19 A No, sir.
20 Q Why not?
21 A Because my training and experience, and with the
22 intensity of the heat and fire, I knew the 10-pound fire
23 extinguisher I had in my car would do no good to the fire.
24 Q Could you feel the heat from the fire?
25 A Yes, sir.

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1 Q Is that light pole still charred today?
2 A Yes, sir, it is.
3 Q Does Plaintiffs' Exhibit 4 show the fire after when
4 you first saw it? In other words, had the fire grown since the
5 first time you saw the fire?
6 A Yes, sir, it has.
7 Q Did you talk to anybody else other than Emily Newsome
8 Avery about the wreck when you were on the scene of the wreck?
9 A Yes, sir, I did.
10 Q Did you -- tell us who you spoke with.
11 A I spoke with Mr. Bryan Harrell.
12 Q How did that come about? Did he approach you or did
13 you approach him?
14 A He did. When I moved my car away from the Jeep to
15 get -- to get it out of the way of the fire trucks coming,
16 Mr. -- or Bryan walked up to the back of my patrol car. I
17 asked him was he okay. He said yes. And I asked him was he
18 hurt, and he said no. Then he looked at me and he said he was
19 sorry.
20 Q Could you tell what he was referring to when he said
21 "I'm sorry"?
22 A Yes, sir. He was in earshot distance of what Emily
23 was screaming to me, and he realized somebody was still inside
24 the Jeep.
25 Q I wanted to ask you, to the extent you know, about

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1 some other people who were on the scene of this wreck. Were
2 there people there other than a person then known as
3 Emily Newsome and Bryan Harrell?
4 A Yes, sir, there was.
5 Q Did you see a person named Al Kelley?
6 A Yes, sir, I did.
7 Q Could you tell what Al Kelley was doing at the time
8 you arrived?
9 A He was standing in front of his pickup truck.
10 Q Was he holding Emily back from returning to the fire?
11 A Yes, sir.
12 Q Do you recall seeing any African-American women on
13 the scene of this wreck?
14 A Yes, sir, I saw two.
15 Q Is it possible that there were three and that there
16 was somebody you didn't see?
17 A Yes, sir, it's very possible.
18 Q Is it possible that there were several witnesses on
19 the scene of this wreck that you didn't notice because you were
20 looking at the fire or taking care of Ms. Newsome?
21 A Yes, sir.
22 Q Is it possible that people made attempts to run up to
23 the Jeep and to rescue Remington Walden before you got to the
24 scene?
25 A Yes, sir, it's possible.

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1 out with his father, Brian Walden?
2 A Yes, sir.
3 Q Did you know Remington's mother, whose maiden name
4 was Lindsay Newsome?
5 A Yes, sir.
6 Q How did you know her?
7 A Went to school with her all through grade school.
8 She was married to Brian, which she'd come to all the family
9 functions and sporting events.
10 Q There are -- there's some -- some families have kids
11 that tend to stay at home and other families want to -- every
12 time they go do something, it seems like they bring their child
13 with them. If you know, what was the Walden family like before
14 this wreck?
15 A He was always with them.
16 Q What kind of boy was he?
17 A He was a pistol ball. He was full of energy, full of
18 life. Run, play, get -- got into everything. Just -- he loved
19 being a little boy.
20 Q Did you have a child about Remington's age?
21 A Yes, sir, I do.
22 Q What's the child's name?
23 A Kerrigan Palmer.
24 Q Did they play together?
25 A They did.

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1 Q Is it possible that happened and you just didn't
2 observe it?
3 A Yes, sir.
4 Q By the time you arrived, did you hear any screams?
5 A No, sir, I did not.
6 Q Is it possible that Remington was screaming before
7 you got there?
8 A Yes, sir.
9 Q If another witness or multiple witnesses testified
10 that they heard screams coming from that Jeep, would you have
11 any reason at all not to believe them?
12 A No, sir, not at all.
13 Q Trooper Palmer, one of the things this jury will be
14 asked to do, and maybe the most difficult thing, will be to
15 assess the full value of Remington Walden's life. So I'd like
16 to ask you for that purpose a little bit about Remington. Tell
17 us, if you would, how you knew Remington and where you would
18 typically see him.
19 A Like I said, I was best friends with his dad. His
20 dad and my wife were first cousins. So to me, he's family.
21 I'd see him every Christmas, birthday party, every Monday
22 through Friday at the same daycare my little girl went to, when
23 I picked her up. Any special event at the daycare. Any event
24 like that.
25 Q Would you ever see Remington when you were hanging

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1 Q To the extent you know, what kind of things did
2 Remington like to do?
3 A Played outside, played baseball -- or T-ball. He
4 played tennis. Anything a little boy can get into.
5 Q You told me one time a story about a hat that
6 Remington had. Would you share that with us?
7 A Yes, sir. His dad took him to a motocross event,
8 dirt bike race in Atlanta at the Dome. And Brian bought both
9 of them matching hats. It was a black and green hat. He -- he
10 wore it everywhere he went, turned around backwards, because he
11 thought he was cool. He thought he was -- he thought he was
12 it.
13 Q I'm going to show you now a picture that is not
14 independently marked but is a part of Plaintiffs' Exhibit 194.
15 I'll put it up on the document camera. You may have to step
16 around to see it.
17 A That's him.
18 Q Is that the hat you were talking about?
19 A Yes, sir, that's the hat.
20 Q And is that his daddy that he's with?
21 A That is his daddy.
22 MR. JEB BUTLER: Thank you. That's all the questions
23 I have.
24 THE COURT: Mr. Brantley?
25 MR. BRANTLEY: Yes, Your Honor.

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CROSS-EXAMINATION

BY MR. BRANTLEY:

Q Trooper Palmer, I'm Terry Brantley. Good afternoon.

A Good afternoon.

Q I have just a few questions for you today. As you know, you previously gave a deposition in this case, and you were asked a number of questions about this accident.

A Yes, sir.

Q I'm sure you recall. And a part of that questioning process, we asked about where you were at the time you got the call. And I understand you were very close to where we are here today.

A Yes, sir.

Q As best I can tell from reading through your deposition, I didn't take it, but you immediately took off to the site of the accident, right?

A Yes, sir.

Q And I believe your deposition testimony was that you got there in less than 30 seconds; is that right?

A Yes. It was pretty fast.

Q Yes. And when you arrived and came upon the scene, you came upon the scene from the opposite direction in which the vehicles had been traveling, correct?

A Yes, sir, I did.

Q Let's say southbound on old Quincy Highway.

there and you realized that you did have a connection to the folks involved in the accident?

A Yes, sir.

Q And at that point in time, what you decided to do was to call another trooper, Trooper Landrum, and let him take over the matter?

A Yes, sir, I did.

Q And then you didn't -- you didn't get yourself involved in this investigation whatsoever?

A No, sir.

Q So you didn't take any part in terms of interviewing witnesses or determining who did what while they were at the site of this accident?

A No, sir, I did not.

MR. BRANTLEY: Those are all the questions I have, sir. Thank you.

THE COURT: Mr. Bicknese?

CROSS-EXAMINATION

BY MR. BICKNESE

Q The only conversation you had with Mr. Harrell on that day was you asked him was he okay as he was near your squad car?

A Yes, sir.

Q And then he also said that he was sorry?

A Yes, sir.

A Yes, sir.

Q And when you got there, you didn't see anybody at the Jeep Grand Cherokee, correct?

A Not from the side that I was on.

Q Okay. In fact, it's my understanding that you got to the scene and got out of your car and you didn't see any witnesses when you first got out of your car, right?

A No, sir, I did not.

Q It's my understanding the smoke was so thick that you couldn't see the witnesses because they were standing on Hubert Dollar Drive; is that right?

A Yes, sir.

Q Just so the jury understands, this is Hubert Dollar Drive here (indicating). Can you see that, sir?

A Yes, sir, I can.

Q And you approached coming from this direction (indicating); is that right?

A Yes, sir.

Q Okay. And so you stopped somewhere in this area (indicating), generally speaking?

A Yes, sir.

Q And you couldn't see the witnesses who were standing over here at Hubert Dollar Drive?

A No, sir, I could not.

Q Okay. And it's also my understanding that you got

Q That's it?

A That's it.

MR. BICKNESE: Thank you, sir.

THE COURT: Mr. Butler?

MR. JEB BUTLER: Nothing further, Your Honor.

THE COURT: Mr. Brantley?

MR. BRANTLEY: Nothing further, Your Honor.

THE COURT: You may step down, sir.

MR. JEB BUTLER: May this witness be excused?

THE COURT: Any objection, Mr. Brantley?

MR. BRANTLEY: No objection.

THE COURT: Mr. Bicknese?

MR. BICKNESE: No objection.

THE COURT: You're excused, sir.

THE WITNESS: Thank you, sir.

(Witness excused.)

MR. JEB BUTLER: We'd call one more, Your Honor. I don't know that he's here, I suspect he is, or we can take a break.

THE COURT: Why don't we go ahead and take our break.

We'll take a break for about ten minutes, till about 3:00.

Please go into the jury room.

(Jury excused from the courtroom.)

(Recess taken.)

MR. JIM BUTLER: There's one issue I'd like to take

1 up. The Plaintiffs' next witness will be Captain Kenny
2 King. There's two photographs that I'd like to ask
3 Captain King about: The photos of Remington in the car
4 and burned up in the Jeep. I don't want to show them to
5 the jury. I just want to make the Court aware of that.
6 What I'd like to do is approach and show him the pictures
7 and have him describe them, but I won't put them on the
8 document camera or publish them.

9 **THE COURT:** Okay.

10 (Jury seated in jury box.)

11 **THE COURT:** Call your next witness.

12 **MR. JEB BUTLER:** Plaintiffs call Captain Kenny King.

13 **THE COURT:** Mr. King, if you'll remain standing,
14 please. Raise your right hand.

15 Thereupon,

16 **KENNY KING**

17 was called as a witness, having been first duly sworn, was
18 examined and testified as follows:

19 **THE COURT:** Be seated.

20 **DIRECT EXAMINATION**

21 **BY MR. JEB BUTLER**

22 **Q** Introduce yourself to the jury, please.

23 **A** Kenneth King.

24 **Q** Okay. What's your job, Mr. King?

25 **A** Firefighter/EMT.

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1 **A** Those are the people that run the medical calls and
2 wrecks and whatever comes up.

3 **Q** Do you have to take regular training to stay current
4 with your certifications?

5 **A** Every two years.

6 **Q** You mentioned being an extrication specialist, I
7 think. did I hear that right?

8 **A** Yes, sir.

9 **Q** Tell us what that is, sir.

10 **A** It's -- we run wreck calls and cut people out. It's
11 the Jaws of Life. If anybody has heard of the Jaws of Life
12 before. We operate the Jaws of Life and cut people out of
13 vehicles. We remove the car from the patient, and the EMTs and
14 us take the patient from the car. That's pretty much what we
15 do. We have to re-cert every two years on that.

16 **Q** That would be after a car wreck, you remove the
17 people or the bodies from the car?

18 **A** Exactly.

19 **Q** Do you sometimes teach classes with Decatur County
20 Fire and Rescue?

21 **A** Yes, sir.

22 **Q** What kind of classes are you asked to teach?

23 **A** Well, I teach extrication and help out with the third
24 class firefighter and swift water rescue II.

25 **Q** Do you regularly respond to car wrecks as part of

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1 **Q** Okay. What is your rank?

2 **A** Captain.

3 **Q** Where are you a firefighter?

4 **A** Decatur County Fire and Rescue.

5 **Q** How long have you been with the Decatur County Fire
6 and Rescue?

7 **A** November will be 30 years.

8 **Q** You said you attained the rank of captain?

9 **A** What now?

10 **Q** You're a captain now?

11 **A** Yes, captain.

12 **Q** Along the way, have you had to take classes in order
13 to get your rank and then stay current?

14 **A** Yes, sir. We do in-service training at the station,
15 firefighter 1, rescue specialist, extrication specialist, swift
16 water rescue. And we do 120 hours a year in-house training
17 too.

18 **Q** Have you been trained as an EMT as well?

19 **A** Yes, sir.

20 **Q** What's an EMT?

21 **A** Emergency medical technician. Ambulance service is
22 what they run. We run paramedics and EMTs. And I'm an
23 advanced EMT.

24 **Q** EMTs would be sometimes the people that get out of
25 the ambulances, are EMTs?

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1 your job?

2 **A** Yeah, every call.

3 **Q** I'm sorry?

4 **A** Every call.

5 **Q** Every call. How many car wrecks have you been to in
6 your career, approximately?

7 **A** 3,000 plus.

8 **Q** How many fires have you been to in your 30 years with
9 the Decatur County Fire and Rescue?

10 **A** I'd say between 1,500 and 2,000.

11 **Q** Have you ever been called upon to remove bodies that
12 have been burned from vehicles or houses?

13 **A** Yes, sir.

14 **Q** Do you have experience in working a fire hose?

15 **A** Yes, sir.

16 **Q** By that, I mean doing the actual spraying of the
17 hose?

18 **A** Plenty.

19 **Q** Did you respond, Captain King, to a wreck at the
20 intersection of Old Quincy Road, or 97 connector, and
21 Hubert Dollar on or about March 6th, 2012?

22 **A** Yes, sir.

23 **Q** How did you first hear about that wreck?

24 **A** We heard it on the radio at the station. It was in
25 the city. We're a county fire department. And we just more or

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1 less heard it when they paged it out. And a little bit later,
2 they called for our tanker and our rescue truck to go to the
3 call.
4 Q Did you go to the scene of this wreck with the --
5 with the rescue truck?
6 A Yes, sir. I was on the rescue truck.
7 Q What did you see what you arrived on the rescue truck
8 at the scene of this wreck?
9 A We pulled up. Public safety, which is police and
10 fire from Bainbridge, was already on the scene with a fire
11 engine and their police cars. EMS had an ambulance there. And
12 I believe there was a trooper there too.
13 Q Was the fire already out by the time you arrived?
14 A Yes, sir. Everything was over and done with when we
15 arrived.
16 Q Was there anything covering the Jeep to keep people
17 from being able -- being able to look inside?
18 A They had what we call a salvage cover. A red tarp
19 that was over the car.
20 Q Did there come a time, Captain King, when you
21 approached the burned-up Jeep?
22 A Yes, sir. We walked over there to see where the body
23 was positioned in the car.
24 Q To your knowledge, before you approached the Jeep,
25 had anyone else moved the body of the child that was in the

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1 on your recollection of the body, the position of Remington
2 Walden's body once the fire had been put out?
3 A Very accurate.
4 Q Let's look first, please, at the one labeled 313.106.
5 A Okay.
6 Q Is that taken from inside the Jeep?
7 A Yes, sir. From the looks of it, it looks like from
8 the driver window, is what it looks like.
9 Q And is it taken looking toward the rear passenger
10 window?
11 A Toward the right back door.
12 Q Looking -- first let's talk about the inside of the
13 Jeep that's shown here. What color is basically all the
14 material inside the Jeep that you can see?
15 A Ash gray and black.
16 Q Is that because it has been burned up?
17 A Yes, because everything is burned up. It's showing
18 raw metal, is what it's showing.
19 Q I see even with the front and the rear seats, I don't
20 see any cloth. Why is that?
21 A It's all burned up. Every bit of it.
22 Q Can you see the seat frames?
23 A Yes. Front and back.
24 Q Let's talk a little bit about the body of the child
25 that you see there. Is the body completely burned up?

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1 car?
2 A To my knowledge, no.
3 Q Would someone normally move the body before you get
4 there on a call like this?
5 A No, sir. On a fatality, you do not touch anything
6 because they have to investigate, take pictures, take
7 measurements, and all of that stuff.
8 Q When you approached the Jeep, Captain King, did you
9 see the body of the child inside?
10 A Yes, sir.
11 Q Do you now know that that was Remington Cole Walden?
12 A Yes, sir.
13 Q I want to show you two exhibits, Captain King, that
14 for the record are Plaintiffs' Exhibits 3.131 -- excuse me --
15 313.104 and 313.106.
16 MR. JEB BUTLER: With the Court's permission, I'll
17 approach.
18 THE COURT: Yes, sir.
19 BY MR. JEB BUTLER:
20 Q And I'm not going to show these pictures to the jury.
21 Because for someone who's not in this line of work, they're not
22 pleasant to look at. Tell us, please, generally what those
23 pictures show.
24 A It shows this child actually burned up in the car.
25 Q Do those pictures fairly and accurately depict, based

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1 A Yes, sir.
2 Q Does it look like there's any skin still showing at
3 all?
4 A No, sir.
5 Q Is the body basically standing?
6 A Kneeling would be a better word.
7 Q Describe generally for us the position of the body
8 that you see in Plaintiffs' Exhibit 313.106.
9 A His head is -- left chin is on the windowsill going
10 out the window.
11 Q That would be the passenger side rear window sill?
12 A Right. Right back door window. And his chin is
13 laying across -- like right here, is laying on the windowsill
14 to about right here (indicating). His -- the right arm is all
15 the way out the window to here, like this (indicating). So --
16 Q What way is the child's body oriented or facing?
17 A He's facing the door.
18 Q Talk about the -- to the extent we can tell from this
19 picture, tell the ladies and gentlemen of the jury what the --
20 what you can tell about the legs of this child.
21 A His right leg is like he's kneeling on his right knee
22 and his left leg is off the front of the seat.
23 Q Is his left leg extended sort of like he's standing?
24 A Yes.
25 Q Now, can you tell, if this Jeep wasn't all burned up,

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1 where the body's right leg would be?
2 A It would be in the seat.
3 Q Does it appear that the head of the child is
4 basically out the window?
5 A Yes.
6 Q Let's look, please, at the next picture there, which
7 is Plaintiffs' Exhibit 313.104. Tell the ladies and gentlemen
8 of the jury, please, what angle this picture is taken from.
9 A This is straight at the passenger door. Looks to be
10 2-foot away.
11 Q Is this taken from outside the Jeep?
12 A Outside the Jeep, yes, sir.
13 Q Are we looking in Remington Walden's window? That
14 is, the passenger's rear window?
15 A Exactly.
16 Q Describe for us, please, the position of the -- and
17 again, is everything we can see of the -- of the body
18 completely burned?
19 A Yes.
20 Q Tell us, please, what you can tell about the position
21 of the head.
22 A You can see where his chin is on the windowsill.
23 It's three-quarters of the way out.
24 Q And can you get a look at the right arm?
25 A Yes, sir. It's up under his -- between his elbow and

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1 here and make sure he's free before we put him in the body bag
2 and get him out. So I run my hands down his legs and picked it
3 up a little bit to make sure everything was free. Both legs
4 were okay. I got up to his chest and he was stuck to the door.
5 So when I -- I had to pull him away from the door.
6 And it makes a bad sound. Sounds like Velcro pulling off, is
7 the sound. That's the only way I can describe it. And once we
8 had him free, then I eased him up to the two guys and they
9 took him out and put him in the body bag. And that was it for
10 us.
11 Q Was the chest of this child fused to the inside of
12 the passenger's rear door?
13 A Yes.
14 Q Mr. King, it's been testified to in deposition by an
15 expert in this case retained by Chrysler, that the reason the
16 child's body is in the position that we've been describing is
17 because the fire hoses moved the body into that position. I'd
18 like to ask a few questions related to that.
19 In your experience, have you ever seen a fire hose
20 blast a body into a position like this?
21 A No.
22 Q Have you ever known a fire hose to cause a human body
23 to become fused to the body of a car?
24 A No.
25 Q Look, please, at Plaintiffs' Exhibit 313.106, the

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1 his shoulder, is where it's hanging over the windowsill and
2 it's burned off at the forearm.
3 Q And is the arm burned off?
4 A At the forearm.
5 Q Is there any window glass in this picture?
6 A No, sir.
7 Q What can you tell from this picture about
8 Remington Walden's -- if anything, about Remington Walden's
9 facial features?
10 A There is none.
11 Q Is that because of the fire?
12 A That's because of the fire.
13 Q Did there come a time when you were asked to remove
14 the body of Remington Walden from this burned-up Jeep?
15 A Yes, sir.
16 Q Did you do that?
17 A Yes, sir.
18 Q Tell the ladies and gentlemen of the jury, please,
19 how you did it.
20 A I came in from the passenger front door where the
21 burned-up seat frame was and moved the seat forward. Bent it
22 forward so I could get in there to him. And every time I've
23 worked a fire with a burned body, they always stick to
24 something. It's just -- it just happens.
25 So I told the two firefighters with me, let me get in

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1 shot that shows the entirety of Remington's body taken from
2 inside the Jeep. Is that consistent or inconsistent with
3 Remington Walden trying to escape from this burning Jeep?
4 A Consistent.
5 Q Look, please, at Plaintiffs' Exhibit 313.104. And
6 what does this exhibit tell us?
7 A He's trying to climb out the window.
8 Q In your experience, 30 years with Decatur County Fire
9 and Rescue, have you seen fire hoses spray bodies that have
10 been burned into place?
11 A Yes.
12 Q Does -- when that happens, does the fire hose usually
13 move the body?
14 A No.
15 Q Have you ever seen a fire hose move the body?
16 A No.
17 Q Let's look one more time at the full body shot.
18 That's 313.106. And tell us, Captain King, look at this
19 picture, and relying on your recollection of having seen this
20 body, whether it is possible that fire hoses blasted
21 Remington's body into this position?
22 A No.
23 Q Why not?
24 A Because --
25 **MR. BRANTLEY:** Objection, Your Honor. Your Honor,

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1 objection. It's improper opinion testimony and calls for
2 speculation.
3 **MR. JEB BUTLER:** Your Honor, I've asked King to give
4 his reasons for the opinions he's already stated I think
5 twice now without objection.
6 **THE COURT:** I'm going to overrule the objection.
7 **BY MR. JEB BUTLER:**
8 **Q** Captain King, please tell us why you say it's not
9 possible for fire hoses to have blasted Remington Walden's body
10 in the position shown on Plaintiffs' Exhibit 313.106?
11 **A** Because he is coming out of the window, which makes
12 him have to go up and out. And when you're fighting a car
13 fire, you go up to the window and then spray down. And the
14 only way to get him moving up is to put the water under him and
15 push him up. And it's impossible. Can't do it.
16 **MR. JEB BUTLER:** Thank you, Captain. That's all the
17 questions I have.
18 **THE COURT:** Mr. Brantley?
19 **CROSS-EXAMINATION**
20 **BY MR. BRANTLEY:**
21 **Q** Good afternoon, sir. My name is Terry Brantley. I
22 have a few follow-up questions for you. You saw me jump up a
23 minute ago --
24 **A** Yes.
25 **Q** -- and object. And I objected, and I said calls for

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1 was bent and all of that material was pushed that would have
2 knocked him forward during this collision, did you?
3 **A** No.
4 **MR. BRANTLEY:** If you would, 104, slide 68, Bill.
5 **BY MR. BRANTLEY**
6 **Q** And, in fact, if you look at that photograph, you can
7 see -- you agree with me that the rear of this vehicle is not
8 so far forward that it's into the back of that seat where
9 Remington would have been located, and you can see it actually
10 is bent; right?
11 **A** Let me see what we're looking at here.
12 **Q** Yes, sir. Please take your time to orient yourself.
13 **A** I can't tell by this angle.
14 **Q** Can't tell?
15 **A** No.
16 **Q** Do you understand that what's shown on the right half
17 of this photograph is actually the rear of the vehicle that --
18 **A** I can see -- I can tell by the picture what it is.
19 It's so far back. I can't tell by the angle. I can tell on
20 this one.
21 **Q** Okay. And you can see that those seats in this
22 exhibit, they don't line up any longer; right?
23 **A** I cannot tell from this angle.
24 **Q** You can't tell --
25 **A** If it was from the passenger side -- I mean, driver's

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1 speculation. And the reason I did that is you weren't there
2 while this fire was being extinguished; correct?
3 **A** Exactly.
4 **Q** This accident, you came on the scene when everything
5 was over; right?
6 **A** Correct.
7 **Q** And so you didn't get a chance to see what type of
8 efforts were involved to fight this fire and how the hoses were
9 applied to this vehicle; correct?
10 **A** True.
11 **Q** And, in fact, I know you were at the vehicle after
12 the accident, but did you look at the vehicle, inspect the
13 vehicle in any way to see what kind of damage was done to that
14 area where Remington was seated?
15 **A** Yes.
16 **Q** Okay. And did you see that the impact was so severe
17 right behind his seat that the entire rear of that vehicle was
18 pushed into his seat and actually bent his seat?
19 **A** I could tell he had been hit from the rear. As far
20 as bending the seat, after the fire, I couldn't tell that. But
21 I could tell the impact. I see what you're talking about, yes.
22 **Q** But you didn't take a look at it and try to figure
23 out --
24 **A** Oh, no.
25 **Q** -- if there was something that -- some way that seat

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1 side straight across, I could tell you. But from here, I
2 cannot tell you.
3 **Q** And you didn't ever look at any of what I'll call the
4 scientific evidence. You didn't look at any of the medical
5 records after this accident with respect to Remington; right?
6 **A** No, we don't do that.
7 **Q** You didn't see any autopsy?
8 **A** No, we don't do that.
9 **Q** If I said the word carboxyhemoglobin, does that mean
10 anything to you?
11 **A** I wouldn't know what you're talking about.
12 **Q** Okay. All right. All right. And those -- the hoses
13 that are used to put the fire out, what type of water pressure
14 are we talking about?
15 **A** It's usually an inch-and-a-half hose with 80 to
16 100 pounds.
17 **Q** That's PSI?
18 **A** Yeah, PSI.
19 **Q** PSI. And that's how many gallons a minute are we
20 talking?
21 **A** Those put out roughly 150 gallons a minute. Maybe
22 around -- depends on what the nozzle is. The nozzle has to do
23 with the gallons per minute. You can set it up wherever you
24 want. Usually it's 125 or 95.
25 **Q** And that's a one-and-a half-inch hose?

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1 A Yeah.
2 Q And obviously these are fire trucks with the fire
3 hoses. These are powerful hoses?
4 A Oh, yeah.
5 Q These are certainly capable of moving something?
6 A With enough pressure, yes.
7 MR. BRANTLEY: All right. Thank you, sir. No
8 further questions.
9 MR. BICKNESE: No questions.
10 THE COURT: Mr. Butler?
11 MR. JEB BUTLER: I might have. Just a minute,
12 Your Honor.
13 **REDIRECT EXAMINATION**
14 **BY MR. JEB BUTLER**
15 Q Okay. Now, I'll ask it from here just to be very
16 brief.
17 Captain King, I think I heard something new during
18 Chrysler's cross-examination, and I'm not sure where this is
19 going. But do you recall the questions about the sort of crush
20 damage to the back of the Jeep?
21 A Yes.
22 Q I don't know if this is right, but it's possible this
23 jury will later hear a suggestion that the damage to the rear
24 of the Jeep caused Remington to be catapulted forward into the
25 position where his body was found. Now, I just want to ask you

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1 offer to play that videotaped deposition now. The run
2 time is 18 minutes.
3 MR. BRANTLEY: Your Honor, Mr. Harrell is here. His
4 counsel has asked that he be transported here to be heard
5 live. We ask that if Mr. Harrell is called on
6 cross-examination, that he be called live so the jury can
7 hear him.
8 THE COURT: All right. Mr. Bicknese?
9 MR. BICKNESE: Your Honor, we consent to the
10 deposition being played on the videotape today. It was an
11 evidentiary deposition, and we consented to it happening
12 in that manner at the time so we consent to that being
13 played.
14 THE COURT: Mr. Butler, I'll hear from you again.
15 MR. JIM BUTLER: Yes, sir. It's discretionary with
16 the Court. The problem was we had to have Mr. Harrell's
17 testimony in our case. And neither Chrysler nor
18 Mr. Harrell's lawyers had done anything to try to get him
19 to come to trial. So we had a decision to make. And I
20 did my trial cross-examination of him on January 6. It
21 wasn't until a month later the motion was filed to bring
22 him to trial.
23 It's unfair to the Plaintiffs to give all the
24 Defendants a preview of the trial cross-examination and
25 then for me to have to do it again. It's only 18 minutes

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1 this: Based on the picture of Remington's -- or Remington's
2 head taken from outside the vehicle, does it appear to you that
3 Remington was trying to climb out of this car?
4 A Yes.
5 MR. BRANTLEY: Same objection as earlier, Your Honor.
6 MR. JEB BUTLER: Same response.
7 MR. BRANTLEY: Calls for improper opinion.
8 THE COURT: I'm going to overrule it. It was already
9 asked and answered earlier.
10 MR. JEB BUTLER: No further questions.
11 THE COURT: All right. Mr. Brantley?
12 MR. BRANTLEY: No further questions.
13 THE COURT: You can step down, sir.
14 MR. JEB BUTLER: May this witness be excused?
15 THE COURT: Any objection, Mr. Brantley?
16 MR. BRANTLEY: No objection, Your Honor.
17 THE COURT: Mr. Bicknese?
18 MR. BICKNESE: No.
19 THE COURT: You're excused, sir.
20 (Witness excused.)
21 THE COURT: Sir, you're excused.
22 Call your next witness.
23 MR. JIM BUTLER: Your Honor, we took our trial
24 cross-examination of Defendant Harrell at Georgia State
25 Prison in Reidsville on January 6, 2015, and we would

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1 long, but it was conducted for use at trial. Mr. Brantley
2 here himself was there. And at the end of the deposition,
3 he had an opportunity to conduct his cross-examination if
4 he wanted to. He elected not to ask any questions. We
5 have no objection to Chrysler calling Mr. Harrell live to
6 the stand during their case. That's fine with us.
7 THE COURT: Well, I'm going to require that he called
8 live since he's here.
9 MR. JIM BUTLER: We call Mr. Harrell to the stand,
10 Your Honor.
11 THE COURT: All right. Mr. Harrell, please raise
12 your right hand, sir.
13 Thereupon,
14 **BRYAN HARRELL**
15 was called as a witness, having been first duly sworn, was
16 examined and testified as follows:
17 THE COURT: All right. Be seated.
18 MR. JIM BUTLER: Just one moment, Your Honor.
19 THE COURT: Sure.
20 MR. JIM BUTLER: I'm sorry, Your Honor. I was
21 looking at -- stumbling around. Did you swear the
22 witness?
23 THE COURT: I did.
24 MR. JIM BUTLER: All right. Thank you.
25 **DIRECT EXAMINATION**

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1 **BY MR. JIM BUTLER:**
2 **Q** State your name for the record, please, sir.
3 **A** Bryan Harrell.
4 **Q** Mr. Harrell, you were 26 years old when this
5 happened; is that correct?
6 **A** Yes, sir.
7 **Q** You had completed the 10th or 11th grade?
8 **A** Tenth.
9 **Q** Tenth? You were working for your father in the
10 roofing business?
11 **A** I was.
12 **Q** Your grandfather was also in the roofing business?
13 **A** Yes, sir.
14 **Q** Do you recall being interviewed on video by
15 Sgt. Fallin of the Georgia State Patrol the night of this
16 wreck?
17 **A** I do, yes, sir.
18 **Q** Do you recall talking to Trooper Palmer at the scene
19 of this wreck?
20 **A** I do not.
21 **Q** Do you recall answering all of Sgt. Fallin's
22 questions that night?
23 **A** For the most part, yes.
24 **Q** There was a transcript of that interview; was there
25 not?

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1 **A** I would believe that, yes, sir.
2 **Q** Why were you crying, Bryan?
3 **A** (Weeping.) Same reason now, I guess.
4 **Q** Why is that?
5 **A** I feel sorry for the family. Guilty somewhat for the
6 little boy's death.
7 **Q** Did you deliberately, on purpose, hit the back of
8 that Jeep?
9 **A** Of course not.
10 **Q** Did you intend to cause any harm to Remi Walden?
11 **A** No, sir.
12 **Q** Did you know that that Jeep had a gas tank on the
13 back of the Jeep that was just 11 inches from the back of the
14 Jeep hanging 6 inches below the bottom of the Jeep? Did you
15 know that before this accident happened?
16 **A** No, sir.
17 **Q** Had you ever noticed where gas tanks were on Jeeps
18 like that?
19 **A** No, sir. Never paid any attention.
20 **Q** Did you know the gas tank on that Jeep was totally
21 unprotected from rear impact?
22 **A** No, sir.
23 **Q** You were driving a 1997 Dodge Dakota pickup, were you
24 not?
25 **A** Correct.

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1 **A** There was.
2 **Q** Have you seen that transcript?
3 **A** Yes, sir, I've seen it.
4 **Q** Have you read it?
5 **A** Maybe half of it.
6 **Q** Did you note in that transcript -- that was taken the
7 night of the wreck; correct?
8 **A** Yes, sir.
9 **Q** Did you note in the transcript that the court
10 reporter, like this lady is doing now, took down everything you
11 said?
12 **A** Yes, sir.
13 **Q** Did you also note that the night of the wreck when
14 you were interviewed by the Georgia State trooper -- Georgia
15 State Patrol Sgt. Fallin, she also noted in there times when
16 you were -- the record says weeping. Did you see that?
17 **A** I did.
18 **Q** Well, I counted them. The night of the wreck, is it
19 correct that during -- do you remember how long that interview
20 lasted?
21 **A** No, sir. Not exactly.
22 **Q** Is it correct that the court reporter the night of
23 the wreck, when you were interviewed by the Georgia State
24 Patrol, wrote down 18 times that you were weeping as the
25 trooper was asking you questions?

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1 **Q** Were you braking when you hit the back of that Jeep?
2 **A** No, sir. I believe I was already let off the brake
3 and was in a coasting manner.
4 **Q** Did you know where the gas tank was on your 1997
5 Chrysler Dodge Dakota pickup?
6 **A** Yes.
7 **Q** Where was it?
8 **A** In the, what I call, the mid shaft, midship, whatever
9 it is. The only reason I know that is because I've been up
10 under my truck to work on it many times.
11 **Q** I show you Plaintiffs' Exhibit No. 27. Let me make
12 sure I've got the right one here. We have got so many
13 photographs, I get lost.
14 I show you Plaintiffs' Exhibit No. 28. Is it not on
15 your monitor there?
16 **A** No, sir.
17 **Q** Do you want to come down here and look at it and see?
18 **A** No. It just came on.
19 **Q** All right. Do you recognize that as the underside of
20 your Dodge Dakota pickup?
21 **A** Yes, sir, I would say so.
22 **Q** Is that the gas tank right there on the right of the
23 picture?
24 **A** Yes, sir.
25 **Q** It's ahead of the rear axle; right?

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1 A Yes, sir.
2 Q It's not behind the axle?
3 A No, sir.
4 Q Was your 1997 Dodge Dakota pickup made by Chrysler?
5 A It's a Dodge product, yes, sir.
6 Q Was it made two years before this 1999 Jeep Grand
7 Cherokee that had a rear gas tank?
8 A Repeat the question, please.
9 Q Well, 1997 is two years before 1999, isn't it?
10 A Yes, sir.
11 Q Have you ever heard of Chrysler warning people that
12 you need to be extra careful not to hit the back of Jeeps with
13 rear gas tanks because the gas tanks might explode? Have you
14 ever heard of a warning like that?
15 A No, sir.
16 Q Did you have any idea -- do you remember what the
17 Jeep looked like when it was on fire at the scene?
18 A Yes, sir, I do.
19 Q Let me show you Plaintiffs' Exhibit No. 4. Is that
20 what you saw?
21 A That's the vision I have, yes, sir.
22 Q Did you have any idea that that could happen from
23 just hitting a car in the rear --
24 A No, sir.
25 Q -- before this happened?

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1 A No, sir, I wasn't aware of that.
2 Q That steel bumper on the front of your car, which was
3 made by Chrysler, has hit two or three trees and ended up
4 hitting a big oak tree, didn't it?
5 A It did.
6 Q It's still there, isn't it?
7 A Yes, sir.
8 Q Did you know that after this fire there was nothing
9 on the back of that Jeep, the bumper -- that piece of
10 plastic -- that piece of trim was made of plastic. Did you
11 know that?
12 A No, sir.
13 Q Do you remember the night the state patrol
14 interviewed you that they -- before we get to that, is this a
15 picture of your pickup truck, Plaintiffs' Exhibit No. 31, at
16 the scene after the wreck showing where it hit that big oak
17 tree?
18 A Yes, it is.
19 Q And it's my understanding that you did not have your
20 seat belt on; is that correct?
21 A I did not.
22 Q And you were not injured in the wreck, were you?
23 A No, sir.
24 Q You climbed out of the window on the driver's side of
25 your pickup truck and ran up to the Jeep; is that correct?

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1 A No, sir.
2 Q You saw that, didn't you?
3 A Yes, I did.
4 Q You were there at the scene a long time, weren't you?
5 A The whole time.
6 Q Do you recognize this as your Dodge Dakota pickup,
7 Plaintiffs' Exhibit No. 26?
8 A Yes, sir, I do.
9 Q Isn't it true that your Dodge Dakota pickup hit
10 several trees and ended up against a big oak tree?
11 A Yes, sir.
12 Q Were you here when Chrysler's lawyer made an opening
13 statement?
14 A I was.
15 Q Do you remember him showing the jury this slide right
16 here? It's CG Exhibit 104-44, slide No. 27 in Chrysler's
17 PowerPoint. Do you remember seeing that?
18 A It's not yet on the monitor.
19 Q Can you look at the screen right quick?
20 A Yes, I do. I remember that.
21 Q All right. I want to use this laser pointer. Look
22 right there. That's a steel bumper on the front, isn't it?
23 A Yes, sir.
24 Q Did you know the 1999 Jeep Grand Cherokee didn't have
25 any bumper at all?

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1 A I did.
2 Q What did you see?
3 A Well, once I come out of the window of my truck, as
4 you can see, the shoulder right there where the green grass is
5 at, I went to the shoulder. This is where I paused for maybe a
6 few seconds and observed the two driver's side windows were
7 down -- the two front windows were down on the Jeep. I didn't
8 see anyone in it.
9 Q Let me stop you for a minute. When you came up to
10 the shoulder, the Jeep had spun around. So you were looking at
11 the driver's side; right?
12 A Right.
13 Q You could see nobody was in the driver's seat;
14 correct?
15 A Or the passenger seat.
16 Q In the front?
17 A In the front.
18 Q All right. Go ahead. What did you see?
19 A I seen that the asphalt was ignited somehow I guess
20 with the gas. I assume the asphalt ignited. And I noticed
21 that up under the rear of the Jeep, it was trickling. Gas was
22 just liquid fire, dripping fire from the rear end.
23 At this point, this is when I hear somebody hollering
24 that there's a baby in the car. And I don't know where the
25 voice come from. This is when I start to run toward the

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1 vehicle, which is approximately from here to where the clock is
2 hanging over there (indicating).
3 Q Where the clock is hanging?
4 A Yes, sir.
5 Q Let me stop you for a minute about this voice you
6 heard. You heard somebody holler "there's a baby in the car,"
7 right?
8 A Yes, sir.
9 Q Now, you've been interviewed about this wreck, the
10 night of the wreck, sometime later in May, right --
11 A Right.
12 Q -- in 2012, then again when your deposition was taken
13 this January; right?
14 A Right.
15 Q And between there when you appeared before Judge Cato
16 last October; right?
17 A Yes, sir.
18 Q So you talked about this four times?
19 A At least.
20 Q I mean to officials.
21 A Right.
22 Q To law enforcement officers or a judge or lawyers;
23 right?
24 A Yes, sir.
25 Q Have you told the same thing every time?

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1 could feel the pressure of the blast.
2 Q You felt the pressure of the blast?
3 A Yes, sir.
4 Q Could you feel the heat?
5 A Yes, sir, immediately.
6 Q Did you try -- what did you do next?
7 A Stood there in awe just wishing that I could help,
8 but obviously there's no way I can get close enough to do
9 anything now.
10 Q Did you tell Sgt. Fallin that night of the wreck,
11 March 6, 2012, "I wish it took me instead of that boy"?
12 A Yes, sir.
13 Q Did you tell Sgt. Fallin that night that you wanted
14 to reach out to the family?
15 A I did.
16 Q Did you tell Sgt. Fallin that you were, quote, so
17 sorry?
18 A Yes, sir.
19 Q Do you recall appearing before Judge Cato on
20 October 14, 2014, when you entered a guilty plea?
21 A Yes, sir.
22 Q Did you hear District Attorney Joe Mulholland tell
23 Judge Cato that Remington Walden burned to death? Do you
24 remember hearing that?
25 A Yes, sir, I do.

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1 A Yes, sir.
2 Q The voice you heard screaming "there's a baby in the
3 car," did you believe that to be an African-American lady?
4 A I did.
5 Q Do you know who it was?
6 A No, sir, not until today when she took the stand.
7 Q Did you recognize her?
8 A I did not.
9 Q Do you believe that was Ms. Brown that you heard?
10 A I do. I assume it was, yes, sir.
11 Q Did you try to get closer to the car after you heard
12 a lady say "there's a baby in the car"?
13 A Yes, sir, I did. Once I heard this, I looked, like I
14 said, at the rear of the vehicle. It was dripping fire, but it
15 was not yet engulfed in flames. So as I -- right then I
16 immediately started to run toward the vehicle obviously to help
17 and see actually what was going on. Because at the time I
18 could not see in the rear of the vehicle. The driver's side
19 rear glass was up. So I couldn't see if there was anybody else
20 in the vehicle. I didn't assume anything until I heard this
21 voice.
22 I take off toward the vehicle. I maybe made it to
23 where the lawyers are standing, or sitting right there, and the
24 whole vehicle blows up in my face. I wouldn't say knocked me
25 back, but it knocked me back, I guess in so many words. I

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1 Q Did you tell Judge Cato that -- the same thing you've
2 said today, that you heard somebody screaming "there's a baby
3 in the car" and you thought it was an African-American lady?
4 A Yes, sir.
5 Q Did you tell Judge Cato you saw the truck explode?
6 A Yes, sir.
7 Q Did you describe the truck -- did you describe what
8 you saw as an inferno?
9 A I did.
10 Q Did you go around to the other side of the Jeep?
11 A Yes, sir.
12 Q Was the passenger side window out?
13 A It was.
14 Q Could you see part of Remi outside that passenger
15 side window frame?
16 A Yes, sir.
17 Q What did you see?
18 A Elbow length of his arm.
19 Q Was it on fire?
20 A It was.
21 Q Was it moving?
22 A Yes, sir.
23 Q Did you tell Judge Cato, quote, I see his arms on
24 fire, like help me, close quote? Did you tell Judge Cato that
25 on October 14, 2014?

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1 A Yes, sir.
2 Q Was Remi -- was Remi alive when you saw him?
3 A I assumed by the movement of his arm he was alive,
4 yes, sir.
5 Q Was he moving his arms?
6 A Just the one arm.
7 Q Did you know that, starting in 2004 with the 2005
8 model year Grand Cherokee, Chrysler started selling Grand
9 Cherokees with the gas tank located in the midships position,
10 the same place Chrysler had put the gas tank on your 1997
11 Dakota instead of at the rear 11 inches from the bumper? Did
12 you know that?
13 A I wasn't aware of that.
14 Q Do you believe that if this gas tank on the 19 -- on
15 the Waldens' Grand Cherokee had been at the midships position
16 instead of the rear, there would have ever been a fire?
17 MR. BRANTLEY: Objection, Your Honor, calls for
18 speculation.
19 THE COURT: I sustain the objection.
20 BY MR. JIM BUTLER:
21 Q Do you recall that the night that you were -- the
22 night of the wreck when you were interviewed by the Georgia
23 State Patrol they took a picture of you?
24 A Vaguely, yes, sir.
25 Q Plaintiffs' Exhibit No. 30, is this the picture they

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1 cause the wreck.
2 Now, what Mr. Brantley wants to do, or he tried to do
3 in the deposition, is impeach the witness --
4 MR. BRANTLEY: Your Honor, this is --
5 MR. JIM BUTLER: -- about things that are not
6 relevant given the stipulation.
7 MR. BRANTLEY: This is absolutely impeachment,
8 Your Honor, and it's cross-examination. And Mr. Harrell's
9 story has changed from day one to March 25 --
10 MR. JIM BUTLER: He's making a speech, Your Honor. I
11 object to that.
12 MR. BRANTLEY: -- 2015.
13 MR. JIM BUTLER: Object to that.
14 MR. BRANTLEY: That's all I'm going to do.
15 THE COURT: Just a minute. I'm going to overrule the
16 objection. You can proceed, Mr. Brantley.
17 MR. BRANTLEY: Thank you, Your Honor.
18 BY MR. BRANTLEY:
19 Q Do you also recall your counsel indicating that you'd
20 accepted responsibility for this accident since day one? Do
21 you recall that?
22 A I do.
23 Q And that you admit that you're negligent; is that
24 correct?
25 A I did.

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1 took of you when they were interviewing you the night of the
2 wreck?
3 A Yes, sir, I believe so.
4 MR. JIM BUTLER: Thank you, Your Honor. Thank you,
5 Mr. Harrell.
6 THE COURT: Mr. Brantley?
7 You can stand for a minute.
8 You can proceed, Mr. Brantley.
9 MR. BRANTLEY: Thank you, Your Honor.
10 CROSS-EXAMINATION
11 BY MR. BRANTLEY:
12 Q Now, Mr. Harrell, you were here yesterday for opening
13 statements; correct?
14 A Yes, sir.
15 Q And you heard the argument of your counsel, and I
16 have a copy of it printed here, where he said that you had
17 never tried to pass the blame or infer that Emily Newsome was
18 to blame for the wreck. Do you remember hearing that?
19 A Yes, sir.
20 Q Do you recall your lawyer saying that you're not
21 doing that and you've never done that?
22 A I remember --
23 MR. JIM BUTLER: Objection. There's a stipulation in
24 this case agreed to by counsel, it's stipulation No. 1,
25 that Emily Newsome did nothing to cause or contribute to

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1 Q And that he admits all of these things, he has never
2 denied it, not from day one; is that right?
3 A That's right.
4 Q You heard that. And that's not true, is it?
5 A Yes, it's true.
6 Q It's true. All right. In this case I think you
7 understand that we have sent discovery and other parties have
8 sent discovery. And early in this case, there were items
9 called requests for admissions sent to you. I've asked you
10 about them at both of the depositions we've had; right? Do you
11 recall that?
12 A I'm sure. Yes.
13 Q And they are CG Exhibit 706. And I want to show them
14 on this projector here. And we talked about the stipulation
15 you heard that's been entered now. But if we look at this
16 document, if we look at No. 5 -- I want to show it to the jury
17 first just to make sure we all understand. This is the Walden
18 versus Chrysler Group and Harrell case. You see that; right,
19 sir?
20 A There's nothing there.
21 Q You don't see it?
22 MR. BRANTLEY: Can we -- it's 706, Bill.
23 A Here it is. Anyway to blow it up so I can read it?
24 Got it.
25 BY MR. BRANTLEY

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1 Q Got it? All right. That refers to this case; right?
2 A It seems to, yes.
3 Q Okay. And this is, in the middle here, Defendant
4 Bryan Harrell's Response to Plaintiffs' First Continuing
5 Requests for Admission. Do you see that?
6 A Okay.
7 Q And if we look at the second page, No. 5, the
8 request -- and this was sent by the Plaintiffs to you -- was
9 "admit that the negligence of Defendant Harrell was a proximate
10 cause of the wreck that forms the basis of Plaintiffs'
11 complaint." And your response was "denied." Isn't that true?
12 A That's what it says.
13 Q That's what it says. And No. 6 says, "Admit that no
14 person or entity, other than the parties to this action, is
15 responsible for the subject incident." That's what it says;
16 right?
17 A That's the way it reads.
18 Q And you denied that request for admission as well;
19 correct?
20 A That's what it says, yes, sir.
21 Q All right. We talked about Emily Newsome a second
22 ago. And what you had said previously, No. 7, again sent by
23 the Plaintiffs to you, is "admit that neither Emily Newsome nor
24 Remington Walden negligently caused or contributed to the
25 subject incident." That's what it says, sir; correct?

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1 today; right?
2 MR. JIM BUTLER: Objection, Your Honor. That's not
3 true. The pretrial order has got the stipulations in it
4 agreed to by this man himself, Mr. Brantley. It's
5 stipulated to. The question was now you're saying
6 something different today. The court -- the official
7 pretrial order that Chrysler agreed to stipulates Emily
8 Newsome was not at fault.
9 THE COURT: I understand. I'm going to overrule the
10 objection. Explain your answer, sir.
11 A Okay. In these deposition, to start with, obviously
12 my first time doing anything like this, the way the questions
13 were worded were very confusing then and now. Not so much now
14 as then. Because of the way the question was asked, it's
15 almost like a trickery question, you know. If I'm confused,
16 it's worded a different way. So -- but I want to say that I
17 was never blaming her. And I was never trying to negate the
18 fact that it was partly my fault. I was just simply putting in
19 a chain of events that was happening and the way I seen them as
20 they were happening that day. Wasn't trying to throw the blame
21 on her or take it away from her or put it on myself or take
22 away.
23 MR. BRANTLEY: Let's play the deposition clip HB6,
24 please, Bill.
25 (The following questions and answers were shown to

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1 A That's what it says.
2 Q You denied that as well, didn't you?
3 A That's how it reads, yes, sir.
4 Q Let's look at the next page. This one is very clear,
5 No. 8. "Admit that Defendant Harrell is at fault for causing
6 the subject collision." You denied that, didn't you, sir?
7 A That's what it says, yes, sir.
8 Q And No. 9, "Admit that Emily Newsome is not at fault
9 for causing the subject collision." And you denied that as
10 well?
11 A Yes, sir.
12 Q Now, you've been asked a number of questions about
13 these requests for admission during your deposition; right?
14 A Yes.
15 Q And in fact, I took your deposition for the first
16 time many, many months ago, years ago; correct?
17 A You did.
18 Q And these requests for admissions -- I'll just show
19 you mine -- are dated September 21, 2012, nine months after the
20 accident; is that right?
21 A That's right.
22 Q And I showed them to you and you agreed with them in
23 your deposition, didn't you?
24 A I may have at the time, yes, sir.
25 Q But now you're telling me you don't agree with me

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1 the jury via video.)
2 BY MR. BRANTLEY:
3 Q The next question in line says, Emily Newsome is not
4 at fault for causing subject collision. Do you see that?
5 A Yes.
6 Q And you deny that?
7 A Yes.
8 Q Do you believe that Emily Newsome was at fault for
9 causing this accident?
10 A Somewhat.
11 (End of video excerpt.)
12 BY MR. BRANTLEY:
13 Q That was a clear question, wasn't it, Mr. Harrell?
14 A It was.
15 Q And you believed Emily Newsome was somewhat at fault;
16 right?
17 A May I explain?
18 Q And that's --
19 THE COURT: Yes, you can explain your answer.
20 A Okay. As the accident happened that day initially,
21 and seeing her stop with the brakes on, blinker on just like
22 it's supposed to be, I observed her let off the brakes which in
23 turn I left off my brake and was coasting. I don't know if in
24 a split second if I looked down at the speed or up or what it
25 was, but in that split second I looked back and she was not out

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1 of the way and abruptly she was at a stop and just -- that's
2 how I meant it. I didn't mean it that I'm trying to take it
3 and blame her for it, she's all at fault because that's how
4 you're trying to make it seem like I feel. But I'm taking my
5 part of the responsibility for it. That's how I meant it.

6 **Q** All right. I want to ask you if this is your
7 testimony. Clip 7, please, Bill.

8 (The following questions and answers were shown to
9 the jury via video.)

10 **MR. BRANTLEY:** And the question really related to
11 Emily Newsome's fault. The best I can tell, you believe
12 that she was at fault for failing to clear the lane in
13 which she was driving; is that accurate?

14 **THE WITNESS:** And that is the truth, yes.
15 (End of video excerpt.)

16 **BY MR. BRANTLEY:**

17 **Q** And, in fact, you continued to blame her.

18 **MR. BRANTLEY:** CG700, clip 1, Bill.

19 (The following questions and answers were shown to
20 the jury via video.)

21 **THE WITNESS:** Come to find out, now I know it was the
22 girl's -- the driver's fault. She ain't tried to get that
23 baby out of the car. I mean, you know, I feel like that I
24 done all I can do to try to get -- I feel like she just
25 ran out and didn't even try. And now I'm supposed to

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1 **A** -- aware of the paperwork.

2 **Q** Are you aware of that?

3 **A** No.

4 **Q** No? We also heard a lot made in opening and today
5 about the fact you weren't wearing your seat belt at the time
6 of the accident?

7 **A** That's right.

8 **MR. BRANTLEY:** BH7, clip 3, Bill. This is from your
9 interview on the night of the accident with
10 Trooper Fallin. Let's take a look at it.

11 (The following questions and answers were shown to
12 the jury via video.)

13 **MR. HARRELL:** And all I remember was going down from
14 there, was going down, hit a couple trees, airbag hit me
15 in the face. And once -- you know, I hit a big tree, and
16 then my head hits the steering wheel. I didn't feel my
17 legs and all get hurt at the time. I just laid -- I had
18 my seat belt on. I jerked it off.

19 (End of video excerpt.)

20 **BY MR. BRANTLEY:**

21 **Q** So you told the troopers on the night of the accident
22 you had your seat belt on, didn't you?

23 **A** Yes, sir, it looks like I did.

24 **Q** The next thing --

25 **A** In all honesty, I don't even -- I don't even remember

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1 just, you know -- and that's -- inaudible) --

2 (End of video excerpt.)

3 **BY MR. BRANTLEY:**

4 **Q** That's in your interview with the police; right?

5 **A** That's exactly how I felt because in my view, nobody
6 went to that vehicle and tried to help but me.

7 **Q** So it's your testimony that that day you got out of
8 your truck and ran to the hill, you were the only one that even
9 tried to get to that vehicle?

10 **A** I didn't see anyone else on the scene.

11 **Q** We've heard a lot about your testimony in terms of
12 what happened between the accident itself and today, and we've
13 seen your request for admission responses. We went over those
14 a second ago. Isn't it true that you just amended those
15 two weeks before on the -- two weeks before today on the eve of
16 trial? Did you even know that?

17 **A** Say it again now?

18 **Q** Did you even know that you amended the request for
19 admission responses that we saw earlier today where you denied
20 fault and said that Emily was at fault for the accident? Do
21 you know whether that happened?

22 **A** I'm just telling you how I -- how I meant it the
23 whole time along. Are you talking about the paperwork? I'm
24 not --

25 **Q** Yes, sir.

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1 half of that right there to be honest with you. I was in total
2 shock.

3 **Q** We've also heard some testimony today about what
4 happened when you approached the vehicle. And you've testified
5 you approached -- tried to approach it from the driver's side,
6 and then you step back, you heard that someone may be in the
7 car so you went around the vehicle to the passenger side;
8 right? Isn't that your testimony?

9 **A** That's not exactly how it happened.

10 **Q** What's that?

11 **A** That's not exactly how it happened.

12 **Q** But you testified you went around the passenger side
13 of this vehicle; right?

14 **A** After the fact. It blown up.

15 **Q** After that you went around the vehicle, correct, and
16 you went to the passenger side?

17 **A** Yes.

18 **Q** And it was at that time you said that you saw Remi;
19 correct?

20 **A** His arm.

21 **Q** And that's -- you told this jury today that's always
22 been your testimony. You said that every time you've been
23 asked about what happened that night, or that day; right?

24 **A** Right.

25 **MR. BRANTLEY:** Let's look at BH7, clip 4, please,

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1 Bill.
2 (The following questions and answers were shown to
3 the jury via video.)
4 **MR. HARRELL:** And I tried to open my door and it
5 wouldn't open. So I threw out my window to go help
6 them. And I run across the street, and I see there's a
7 flame where I guess where the gas -- I guess it busted the
8 gas tank and caught on fire. And it was across the road.
9 So I run, try to get closer to look, and I didn't see
10 anybody in the vehicle. Like I looked for the driver.
11 That's what I was looking for. And I didn't see nobody in
12 the car.
13 But then I -- and then I heard somebody say, "there's
14 a baby in the car." So I try to get closer, but then the
15 flames just like that, and I can't see anything. So I
16 walked around the other side of the vehicle looking for an
17 adult that was driving the vehicle, but I never did see
18 her, till I seen her on the stretcher. That was the first
19 time I had seen her.
20 And then after -- you know, I mean, I was in shock
21 too, of course. So my instinct was to try to go help
22 these people, but I can't get close enough to do anything.
23 And I ran back to my truck. Once I didn't see anybody --
24 like I said, I never saw her jump out of the truck or
25 anything like that. Just didn't see anybody in there.

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1 A It was.
2 Q And Judge Cato asked you a lot of questions?
3 A He did.
4 Q And you talked to Judge Cato a good bit about your
5 plea; right?
6 A I did.
7 Q He read the accusation -- or he asked you if you had
8 read the accusation related to the charges?
9 A Right.
10 Q And you certainly understood that you were pleading
11 guilty to those charges?
12 A Right.
13 Q And he told you you had an opportunity for a jury
14 trial if you wanted it; correct?
15 A Correct.
16 Q You weren't being forced to plead guilty?
17 A No.
18 Q And you had an agreement that, as best I can tell,
19 your lawyer negotiated with you that you would, instead of the
20 maximum of 15 years, you would serve 8; is that correct?
21 A Correct.
22 Q And there was an agreement reached at that time, and
23 it specifically is Exhibit 704, about the fifth page. It's a
24 plea and sentence recommendation. As a part of your deal, it's
25 right in the middle here, under other terms, do you see that,

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1 (End of video excerpt.)
2 **BY MR. BRANTLEY:**
3 Q On the night of the incident, you said, "I ran back
4 to my truck after" -- once I didn't see anybody in there. I
5 just didn't see anybody in there." Is that correct? That's
6 what you said?
7 A That's right, meaning in the front passenger seat.
8 Q Now, I understand you're currently incarcerated and
9 it deals with the charges involved in this accident; correct?
10 A Correct.
11 Q And it's homicide by vehicle and reckless driving?
12 A Right.
13 Q And at the time of this accident, you had another
14 charge pending?
15 A I did.
16 Q And that was for, I believe, possession of cocaine?
17 A Yes, sir.
18 Q And I believe there's an -- overlapping sentences for
19 all of those charges; right?
20 A There is.
21 Q And you did have an opportunity, we heard about it a
22 lot today, before Judge Cato to discuss the charges of homicide
23 by vehicle and reckless driving; right?
24 A Yes.
25 Q And that was on October 14, 2014; correct?

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1 sir?
2 A When he pulls it up, I'll see.
3 Q It's hard to see, isn't it? All right.
4 A I see it.
5 Q All right. And the other terms you agreed to is that
6 you would testify and cooperate in any civil matters; is that
7 right?
8 A That's right.
9 Q And that's this case?
10 A Correct.
11 Q And also when I read the transcript before Judge Cato
12 I learned that your sentence -- that Mr. Butler was satisfied
13 with your sentence being imposed. Do you recall that being
14 discussed at your plea hearing?
15 A I do not.
16 **MR. JIM BUTLER:** Your Honor, we had a discussion
17 about this just yesterday. Mr. Brantley said the same
18 thing outside the presence of the jury. I was not there.
19 Nobody asked me about his sentence. Mr. Brantley knows
20 that.
21 **THE COURT:** I'm going to sustain the objection.
22 **MR. JIM BUTLER:** I'd ask the Court to instruct the
23 jury to disregard that comment by Mr. Brantley,
24 Your Honor. That is totally unprofessionally improper.
25 **MR. BRANTLEY:** Let me show him the plea transcript.

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1 **MR. JIM BUTLER:** I'd ask you to instruct the jury.
2 **THE COURT:** All right. Just a minute for the
3 lawyers.
4 Ladies and gentlemen, I want you to disregard the
5 comment about whether or not Mr. Butler agreed or didn't
6 agree to whatever was said or assumed. Totally disregard
7 and disabuse your mind of that.
8 **MR. BRANTLEY:** May I approach the witness,
9 Your Honor?
10 **THE COURT:** Sir --
11 **MR. BRANTLEY:** I'm asking if it refreshes his
12 recollection as to what happened.
13 **THE COURT:** Well, sir, that part I'm not going to
14 allow as to that because that's not his sentence.
15 **BY MR. BRANTLEY:**
16 **Q** Did you understand that, as part of your plea, there
17 was a agreement to cooperate --
18 **THE COURT:** Now, if you've got something that he
19 said --
20 **BY MR. BRANTLEY:**
21 **Q** Did you understand, as part of your sentence, that
22 you were required to cooperate in this lawsuit?
23 **A** I did.
24 **Q** And as part of that, you were cooperating with
25 Plaintiffs' counsel in this lawsuit?

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1 **A** No. I shook his hand in passing at the time --
2 **Q** You all weren't in this room right off to the left?
3 **THE COURT:** Sir, let him answer the question.
4 **MR. BRANTLEY:** Okay. I'm sorry.
5 **A** Yes, I was in the room getting a cup of coffee. He
6 was also in the room, and we exited the room and he was talking
7 to my attorney. That was it.
8 **BY MR. BRANTLEY:**
9 **Q** So it's just a coincidence that you entered your plea
10 in October of 2014 and now, as you come here for this trial,
11 you change your request for admission responses --
12 **A** No.
13 **Q** -- now indicated -- now indicating that you accept
14 full responsibility for this accident; is that right?
15 **A** I accept my responsibility for the accident.
16 **MR. BRANTLEY:** Thank you.
17 **MR. JIM BUTLER:** Leave the document you had about
18 "cooperate" up there because I'm going to use it.
19 **MR. BRANTLEY:** I'll have to find it.
20 **THE COURT:** Mr. Butler?
21 **MR. JIM BUTLER:** Yes, Your Honor. May I see that
22 document, Mr. Brantley?
23 **MR. BRANTLEY:** Give me one minute.
24 **MR. JIM BUTLER:** The one that said "cooperate," the
25 one you showed, the plea, the page you showed the jury,

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1 **MR. JIM BUTLER:** Your Honor, that's not --
2 **A** Cooperating with everything.
3 **MR. JIM BUTLER:** -- that's not what the plea said.
4 **MR. BRANTLEY:** I'm asking the witness.
5 **MR. JIM BUTLER:** No, no, he's misleading the jury,
6 Your Honor. I object to this. This is outrageous. The
7 plea said cooperate in the civil action. It didn't say
8 anything about the Plaintiffs' lawyers.
9 **THE COURT:** I'm going to sustain the objection. I
10 think that what you have handed up is, you know, a plea
11 agreement that was between the Defendant, Mr. Harrell, and
12 his attorney and the district attorney, but you haven't
13 shown that the Court made that a part of the sentence,
14 sir. And that would be a uniform sentence.
15 **MR. BRANTLEY:** Okay.
16 **THE COURT:** And if it's there, you certainly can
17 cover that. But proceed.
18 **BY MR. BRANTLEY:**
19 **Q** Let me ask you this question. Before your testimony
20 here today, earlier did you meet with plaintiffs' counsel in
21 the back room here, in the courtroom, the courthouse?
22 **A** No, sir.
23 **Q** You didn't?
24 **A** Didn't have a meeting with him.
25 **Q** Not in this hall before lunch?

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1 Mr. Brantley, if you don't mind.
2 **REDIRECT EXAMINATION**
3 **BY MR. JIM BUTLER:**
4 **Q** Mr. Harrell, an old fellow I used to know used to
5 say, "Let's clear the hogs out of the spring." Now, this is
6 the document, plea and sentence recommendation, that
7 Mr. Brantley showed you. Do you remember him showing you that?
8 **A** It's not up yet.
9 **Q** Well, come down here and you can look on with me if
10 you don't mind. Remember to speak up.
11 (Witness steps down.)
12 **A** This is the same document he showed me.
13 **Q** Yeah. Look down there in the other terms. It says,
14 quote, the d-e-f, that -- we lawyers know that means
15 Defendant -- shall testify and cooperate in any civil matters
16 NP 14-CR-068. I guess that's our case. I don't remember the
17 number. "Sentence to be concurrent with any present sentence."
18 Do you see that?
19 **A** Yes, sir.
20 **Q** Do you see my name up there under "other terms"?
21 **A** No, sir.
22 **Q** Do you see my son's name in there, James E. Butler
23 III, or Jeb Butler?
24 **A** No, sir.
25 **Q** Do you see anything about Plaintiffs' lawyers in

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1 there?
2 A No, sir.
3 Q It says you're going to cooperate in civil matters.
4 Now, that means you'll testify, doesn't it?
5 A Yes, that's what I --
6 Q Isn't that what you've done?
7 A Yes, sir.
8 Q Have a seat.
9 (Witness returns to the stand.)
10 **BY MR. JIM BUTLER:**
11 Q You testified under oath on January 6, 2015, that the
12 first cooperation that you did after you entered your guilty
13 plea was to answer questions Mr. Brantley there asked you for
14 two hours; isn't that right?
15 A Yes, sir, I believe so.
16 Q And then I asked you some questions; right?
17 A You did.
18 Q About 30 minutes' worth; right?
19 A Yes, sir.
20 Q Last time you and I saw each other until this trial
21 started; right?
22 A Yes, sir.
23 Q All right. Isn't it true, sir, that you have never
24 denied that you were at fault for causing this wreck?
25 A That's true.

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1 responsibility, aren't you?
2 A I am.
3 Q When you stood there -- when you -- when you did your
4 guilty plea in front of Judge Cato, was it here?
5 A No, sir.
6 Q Where was it?
7 A It was at the jailhouse, in the courtroom there.
8 Q All right. When you stood before Judge A. Wallace
9 Cato -- isn't the name Wallace -- A. Wallace Cato, he's been a
10 Judge a long time, and who some people, mostly lawyers, are
11 afraid of -- when you stood before Judge Cato and accepted
12 responsibility, did you see anybody from Chrysler there?
13 **MR. BRANTLEY:** Object, Your Honor. That's an
14 improper question and violates the motions in limine.
15 **THE COURT:** I'm going to overrule the objection.
16 **BY MR. JIM BUTLER:**
17 Q Did you see anybody from Chrysler there standing in
18 front of Judge Cato?
19 A I don't recall anyone from Chrysler being there.
20 Q Did you see any of these lawyers that Chrysler has
21 hired standing in front of Judge Cato?
22 A No, sir.
23 Q Had you seen anybody for Chrysler locked up like you
24 are locked up in the Georgia state prison over there in
25 Reidsville?

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1 Q Isn't it true, sir, that you have always denied that
2 you caused the burn injuries to and the death by fire of
3 Remington Walden?
4 A I deny that, yes, sir.
5 Q You don't blame Emily Newsome?
6 A No, sir.
7 **MR. JIM BUTLER:** Show the stipulations there,
8 Mr. Poston.
9 **BY MR. JIM BUTLER:**
10 Q Did you know that your lawyers and Chrysler and all
11 of Chrysler's lawyers, about seven or eight of them here, had
12 agreed to this stipulation in this case, that means they agreed
13 this was true, number 1, Emily Newsome did not cause or
14 contribute to cause Remington Walden's death. Did you know
15 that?
16 A No, sir, I didn't.
17 Q Well, if everybody in the case stipulates Emily was
18 not at fault, why is it -- why does it matter, this stuff
19 Mr. Brantley talked to you about?
20 A I don't know, sir.
21 Q I don't either. I don't either. You've accepted
22 responsibility, as you just told Mr. Brantley, for what you
23 did; is that true?
24 A Yes, sir.
25 Q You're in prison because of your accepting

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1 **MR. BRANTLEY:** Objection, Your Honor. That violates
2 the motion in limine.
3 **THE COURT:** I'm not sure it's relevant. I'm going to
4 sustain the objection.
5 **BY MR. JIM BUTLER:**
6 Q You had a duty not to hit the rear of that Jeep,
7 didn't you?
8 A Yes, sir.
9 Q And you hit the rear of the Jeep?
10 A I did.
11 Q The gas tank exploded, didn't it?
12 A Yes, sir.
13 Q You saw the explosion?
14 A Yes, sir.
15 Q Remington died; right?
16 A Yes, sir.
17 Q Aren't those the things that are important in this
18 case?
19 A Yes, sir. To me they are.
20 Q Now, do you believe that if there had been no fire,
21 Remington Walden would still be alive today?
22 A I do believe that, yes, sir.
23 Q Did you put that gas tank at the back of the Grand
24 Cherokee, sir, or did Chrysler put it there?
25 A I assume the maker of the vehicle put it there, sir.

721

1 Q You didn't have nothing to do with that, did you?
2 A No, sir.
3 Q Look at the stipulations. Hogs out of the stream.
4 "Defendant Harrell admits he was negligent and he caused the
5 wreck." Do you see that?
6 A I see it, yes, sir.
7 Q "The Grand Cherokee's gas tank was breached and gas
8 leaked from the gas tank in the subject collision." Do you see
9 that?
10 A I see it.
11 Q Did you know Chrysler stipulated that that was true?
12 MR. BRANTLEY: Objection. Asked and answered,
13 Your Honor.
14 MR. JIM BUTLER: I didn't ask that one.
15 THE COURT: I'll overrule the objection.
16 A No.
17 BY MR. JIM BUTLER:
18 Q The next one, "If gas had not leaked from the Grand
19 Cherokee's gas tank, there would have been no fire in the
20 subject collision." Do you know if Chrysler stipulated that
21 was true?
22 A No, sir.
23 Q And the last, "It was possible for Chrysler to have
24 designed the 1999 Jeep Grand Cherokee with a gas tank located
25 in front of the rear axle." Do you see that?

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1 right?
2 A Yes, sir.
3 Q And then you went back to your truck?
4 A I went back to my truck after -- after the fact of
5 going around to the other side.
6 Q All right. Well, when you were up -- when you went
7 across -- up the shoulder and across onto the roadway and
8 you're looking at that Jeep and you feel that explosion --
9 remember telling to us about that?
10 A Yes, sir.
11 Q If there was somebody at that point in time trying to
12 help get the baby out of the car, they would be on the other
13 side of the car where the baby was, wouldn't they?
14 A I would think so. Yes, sir.
15 Q Thank you, sir. It's entirely possible, isn't it,
16 sir, that there were other people that were trying to get the
17 baby out of the car and you just didn't see them because you
18 couldn't see them?
19 A That's a possibility, yes, sir.
20 MR. JIM BUTLER: Thank you so much. Thank you,
21 Your Honor.
22 THE COURT: Mr. Brantley?
23 MR. BRANTLEY: I have a few follow-ups.
24 RECROSS EXAMINATION
25 BY MR. BRANTLEY:

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1 A I do.
2 Q Now, Mr. Brantley asked you about seeing other people
3 or not seeing other people. This was a pretty emotional
4 experience for you out there on the afternoon of March 6, 2012,
5 wasn't it?
6 A Very. Yes, sir.
7 Q Well, let's be clear. When you climbed out the
8 window of your truck, your truck was on the north side -- have
9 I got this right -- north side of the road? Or am I turned
10 around?
11 A North or south. I'm not sure.
12 Q You were on the opposite side of the road from the
13 Jeep. Let's doing do it that way.
14 A Right; right?
15 Q I got turned around. You climbed out the window.
16 When you came out the window, you were looking at the Jeep;
17 right?
18 A Once I got to the top of the shoulder, yes, sir.
19 Q The Jeep is turned around going back that way
20 (indicating).
21 A Correct.
22 Q So you're looking at the driver's side?
23 A Right.
24 Q You ran up there, and that's when you heard a lady
25 say "there's a baby in the Jeep," then there's an explosion;

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1 Q The fact of the matter is, Mr. Harrell, you were
2 asked what you saw that day and what you saw while you were at
3 the scene, and you were on both sides of the vehicle; right?
4 A Not simultaneously.
5 Q Not simultaneously. But you ran up the hill across
6 the road, you were looking at the driver's side, and then you
7 eventually got around and looked at the passenger side;
8 correct?
9 A Eventually, yes.
10 Q And you didn't see anybody else at the vehicle when
11 you were either on the driver's side or when you went around to
12 the passenger's side; correct?
13 A That's correct.
14 Q And your testimony is by the time you got up to the
15 top of the hill and you saw the Grand Cherokee, there was
16 nobody in the front seat of the Grand Cherokee; correct?
17 A Correct.
18 Q Now, were you speeding at the time you struck the
19 Grand Cherokee?
20 A I don't believe I was, no, sir.
21 Q Do you know how fast you were traveling?
22 A I would say by the time I slowed down and was
23 coasting, probably 45 miles an hour.
24 Q So it's your testimony you were probably traveling 45
25 at impact?

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1 A At impact.
 2 Q So if the experts come and say it was more in line of
 3 55 to 60, that's not going to --
 4 MR. JIM BUTLER: Objection, Your Honor. There will
 5 be no evidence to that. And he knows it. His expert says
 6 51.3. That's exaggerating the --
 7 THE COURT: I'm going to overrule the objection. Ask
 8 your question.
 9 BY MR. BRANTLEY:
 10 Q Your testimony is that you were traveling north on
 11 Old Quincy Highway; right?
 12 A Right.
 13 Q And you saw the Grand Cherokee ahead with brake
 14 lights on and the blinker on; correct?
 15 A Correct.
 16 Q And so you realized it was waiting to make a left
 17 turn?
 18 A I did.
 19 Q And at that point in time you pressed on your brakes?
 20 A Right.
 21 Q And you were back near the church?
 22 A I believe so, yes, sir.
 23 Q Is that right?
 24 MR. BRANTLEY: Can you put up CG-38, Bill?
 25 BY MR. BRANTLEY:

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1 objections. You can proceed, Mr. Brantley.
 2 MR. JIM BUTLER: Can I have a moment to confer with
 3 somebody who knows the territory, Your Honor?
 4 MR. BRANTLEY: I'll ask Mr. Harrell.
 5 BY MR. BRANTLEY:
 6 Q What is this right here, Mr. Harrell? You're
 7 familiar with this road. You live off it or near it; right?
 8 A I do.
 9 Q And what is this clearing?
 10 A The clearing is the yard which is a big, probably
 11 half acre, acre grass beside the church. The church is --
 12 THE COURT: Mr. Brantley, why don't you make sure
 13 you're talking about the same thing? I'm wondering if
 14 he's looking at something different.
 15 BY MR. BRANTLEY:
 16 Q All right. Come down here, Mr. Harrell.
 17 THE COURT: Talk loud and clear where they can hear
 18 you.
 19 (Witness steps down.)
 20 BY MR. BRANTLEY:
 21 Q All right. This building here, is that the church?
 22 A Yes, sir.
 23 Q Okay. That's the church we were talking about, and
 24 that's where you were braking when you were at or around this
 25 area; correct?

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1 Q Just to orient everybody. And the church you're
 2 referring to is the clearing down at the bottom right of that
 3 picture; correct?
 4 A Yes.
 5 Q And so you started to brake at that location and you
 6 braked for some period of time; correct?
 7 A Around about that location.
 8 Q Okay. And then it's your testimony that you let your
 9 foot off the brake at some point; correct?
 10 A Correct.
 11 Q Because you saw Emily Newsome moving?
 12 A Right. The brake lights went off.
 13 Q Lights went off. But you never apply the gas again;
 14 right?
 15 A No, sir, not to my recollection. I did not.
 16 Q So you would have continued to slow down as you
 17 approached the rear of her vehicle?
 18 A I call it coasting.
 19 Q And I believe your testimony is you estimated that
 20 you would have slowed from this church area to impact --
 21 MR. FLOYD: Your Honor, I hate to interrupt him, but
 22 that's misleading. That's not the church area.
 23 THE COURT: Mr. Floyd, Mr. Floyd, I want you to sit
 24 down, sir. I've addressed that with the attorneys, that
 25 whoever is doing the examination will handle the

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1 A Right, to here (indicating). I don't know the exact
 2 pinpoint of where I was at.
 3 Q Okay. And after you hit this area, you began
 4 coasting and never applied the gas again; right?
 5 A I believe there's a house here, a white house here
 6 (indicating) somewhere. I'm not sure if that's the church or
 7 the house. Honestly. I'm not sure. It may have been the
 8 house and I may have misspoken.
 9 Q But is this the landmark you're referring to as to
 10 when you were hitting your brakes on your vehicle?
 11 A I believe it is, yes, sir.
 12 Q Okay. And you never applied the gas again; is that
 13 your testimony?
 14 A Right.
 15 Q You can take your seat, sir.
 16 (Witness returns to the stand.)
 17 BY MR. BRANTLEY:
 18 Q And after the accident and after you ran around both
 19 sides of the vehicle, you went back to your vehicle is my
 20 understanding; is that right?
 21 A After the accident, yes.
 22 Q And you came back up from your vehicle and you ended
 23 up going over to Hubert Dollar?
 24 A I had already been over to Hubert Dollar --
 25 Q Okay.

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1 A -- once, and then I went back to my truck. And then
2 I was running around the scene just shocked. I don't know.
3 Q When Mr. Butler asked you about -- I believe he asked
4 you a little bit about the sentencing and the agreement reached
5 and the requirement I guess that you cooperate. But Judge Cato
6 made sure that you were comfortable with your plea in this
7 case, and the plea specifically was that you did, without
8 malice aforethought, cause the death of Remington Walden; is
9 that right?
10 A That's the way the plea agreement reads.
11 Q And that's what you pled to; is that correct?
12 A Correct.
13 MR. BRANTLEY: Thank you, sir.
14 THE COURT: Mr. Butler?
15 MR. JIM BUTLER: Yes, sir.
16 **FURTHER REDIRECT EXAMINATION**
17 **BY MR. JIM BUTLER:**
18 Q I'll ask one more time. Mr. Harrell, do you believe
19 you caused the death of Remington Walden?
20 A No, sir, I do not.
21 MR. JIM BUTLER: Put the stipulation page back up
22 again, Mr. Poston.
23 **BY MR. JIM BUTLER:**
24 Q Do you have any idea what difference it makes where
25 you started applying your brakes?

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1 MR. JIM BUTLER: Thank you, sir.
2 THE COURT: Mr. Brantley?
3 MR. BICKNESE: Your Honor, if I please --
4 THE COURT: Mr. Brantley?
5 MR. BRANTLEY: No further questions, Your Honor.
6 MR. BICKNESE: Your Honor, please, I would ask that
7 the jury be told that I will have an opportunity in these
8 proceedings to examine Mr. Harrell, that he was called for
9 cross-examination.
10 THE COURT: I'll do that. Ladies and gentlemen,
11 Mr. Harrell's a Defendant and he was called for
12 cross-examination, so his attorney will have the
13 opportunity to call him as his witness during his part of
14 case.
15 Mr. Butler, anything further?
16 MR. JIM BUTLER: Oh, no, Your Honor. Thank you very
17 much.
18 THE COURT: Mr. Brantley?
19 MR. BRANTLEY: No, Your Honor.
20 THE COURT: You may step down.
21 (Witness steps down.)
22 THE COURT: Call your next witness, Mr. Butler.
23 MR. JEB BUTLER: Plaintiffs would call
24 Howard Persinger by video deposition.
25 THE COURT: Let me see counsel real quick about

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1 A No, sir. Not really.
2 Q Isn't it clear that what caused the death of
3 Remington Walden is the gas tank at the rear of the Grand
4 Cherokee that was breached --
5 MR. BRANTLEY: Objection, Your Honor, this is
6 improper.
7 MR. JIM BUTLER: I'm not finished with my question,
8 Your Honor.
9 MR. BRANTLEY: It's the question itself which is
10 objectionable, Your Honor.
11 THE COURT: Well, and I'm going to sustain the
12 objection.
13 **BY MR. JIM BUTLER:**
14 Q Wasn't the gas tank ruptured in the crash?
15 A It was.
16 Q Didn't gas leak from the gas tank?
17 A Yes, sir.
18 Q Isn't gas leaking from the gas tank what caused the
19 fire?
20 A I believe so, yes.
21 Q Isn't the fire what killed Remington?
22 A Yes.
23 MR. BRANTLEY: Object to the form of the question,
24 Your Honor.
25 THE COURT: Overrule the objection.

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1 scheduling.
2 (Bench conference held off the record.)
3 THE COURT: Ladies and gentlemen, we're going to take
4 a quick break. I told you I would when you raised your
5 hands. Anyway, we'll make the real -- we'll make the
6 break quick and we'll go ahead and finish for the evening.
7 Take about a 10-minute break.
8 (Recess taken.)
9 THE COURT: Bring the jury out, please.
10 (Jury seated in jury box.)
11 THE COURT: Everyone be seated. Call your next
12 witness, Mr. Butler.
13 MR. JEB BUTLER: Howard Persinger by video
14 deposition, Your Honor.
15 (The following questions and answers were shown to
16 the jury via video.)
17 MR. JEB BUTLER: Sir, raise your right hand, please.
18 (Witness sworn.)
19 MR. JEB BUTLER: This will be the deposition of
20 Mr. Howard Persinger taken pursuant to notice in the case
21 of Walden against Chrysler. It's taken pursuant to
22 Georgia Civil Practice Act and for all purposes under the
23 act, including use at trial.
24 **DIRECT EXAMINATION**
25 **BY MR. JEB BUTLER:**

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1 Q Please tell the ladies and gentlemen of the jury your
2 name.
3 A Howard Persinger.
4 Q Where do you live, Mr. Persinger?
5 A Fayetteville, West Virginia.
6 Q And we are now, as we take this deposition, in the
7 courthouse in Fayetteville, West Virginia; is that right?
8 A Yes, sir.
9 Q Did you at one time own a Jeep Liberty?
10 A Yes, sir.
11 Q Who drove that vehicle?
12 A Well, my son mostly.
13 Q Is that Travis?
14 A Yeah, Travis. I'm sorry.
15 Q Did there come an occasion where Travis was rear
16 ended when driving that Jeep?
17 A Yes, sir.
18 Q Tell us about that wreck, please. Or let me rephrase
19 that. Tell us, please, where you were when you learned that
20 Travis had been in a wreck in that Jeep Liberty.
21 A I was about maybe six miles behind him. Me and my
22 wife were coming back from her aunt's, and my wife received the
23 call that he had been in a wreck.
24 Q Were you and your wife in the same vehicle or a
25 different vehicle?

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1 And I looked and seen the front end of my Jeep, the blue part
2 on the passenger side. And I thought Travis may still be in
3 there.
4 Well, one of the city police that was coming
5 northbound on 19 had seen the wreck, and he had been there, and
6 he knew me. I know him pretty good. And he come running up
7 the road towards me and said, settle down, Dad, Travis is okay.
8 I said, where is Travis at? And he said, he's sitting on the
9 guardrail. And I walked over to the guardrail. And I walked
10 down the guardrail, and there he was.
11 Q Was the whole Jeep on fire or just part of it?
12 A The most -- most of the Jeep was on fire, except for
13 right at the hood and front fender, what I could see, you know.
14 The rest of it was just engulfed.
15 Q Did you ever see the Jeep again after the fire had
16 been extinguished and your Jeep had been towed from the scene?
17 A Yes, sir, the next day.
18 Q I'm going to show you three other photographs. These
19 are marked Plaintiffs' Exhibit 2, Plaintiffs' Exhibit 3, and
20 Plaintiffs' Exhibit 4. Take a look at those, please, and see
21 if you can tell me what they are.
22 A This one is the Jeep, yeah. And, yeah, this one is
23 too. Yeah, they're all three of my Jeep.
24 Q Okay. You mentioned that there was only one corner
25 of the Jeep, I think, that wasn't burned. Is that the -- can

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1 A No, I was on a motorcycle. I've got a motorcycle.
2 And my wife was in the car behind me. Travis had tried to call
3 me, but I couldn't hear the phone because of the motorcycle.
4 And once we got on 19, it's a four-lane road, she
5 swung out and started to pass me with her flashers on. And I
6 didn't know what was going on. And she was driving fairly
7 fast. And I speeded up to stay up with her and see what's
8 going on. And about four miles down the road, we come up on
9 the wreck.
10 Q I've got a picture here that I've already marked as
11 Plaintiffs' Exhibit 1. Take a look at that, please, and tell
12 me if you can -- if you know what's shown there.
13 A Yeah, it's my Jeep on fire.
14 Q Is that what you saw when you came up on the wreck?
15 A Yes, sir.
16 Q Tell us what happened when you got to the scene, what
17 you did.
18 A Well, the traffic was stopped. My wife stopped
19 behind the traffic. When I pulled the bike up beside the car
20 and I seen the smoke stuff, I still hadn't realized what was
21 going on. And my wife got out of the car and said, Travis has
22 been in a car wreck.
23 Well, the fire truck was sitting there and I really
24 couldn't see the vehicle. So I couldn't tell -- I couldn't
25 find Travis, so I took off down the road as fast as I could.

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1 you see in Plaintiffs' Exhibit 2 that only the corner wasn't
2 burned?
3 A Yes, sir. Yeah, yeah, yeah, that's it.
4 Q I'd like to get you to look now at Plaintiffs'
5 Exhibit No. 4. When you look at that picture, does it appear,
6 based on your recollection and as it's been refreshed by that
7 photograph, that there was much crush to this Jeep forward of
8 the rear axle?
9 A No. No.
10 Q Did Chrysler ever find out about this wreck?
11 A Well, I called Chrysler.
12 Q Mr. Persinger, you said that you called Chrysler; is
13 that right?
14 A Yes, sir.
15 Q Now, why did you call Chrysler?
16 **MR. BRANTLEY:** Objection, Your Honor.
17 A Because --
18 (Video paused.)
19 **THE COURT:** Just a minute.
20 **MR. BRANTLEY:** It's irrelevant.
21 **MR. JEB BUTLER:** Your Honor, this goes to show why
22 the witness did what he did.
23 **THE COURT:** I'm going to overrule the objection.
24 (Video resumed.)
25 A I did not want this to happen to nobody else.

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1 **BY MR. BRANTLEY:**
2 **Q** What did you tell Chrysler when you called Chrysler?
3 **A** Like I -- I don't know the man I spoke to, but I did
4 tell him that I was calling about the concern of my son getting
5 in an accident with a Jeep Liberty. I said, he got hit in the
6 rear end. I said, it wasn't that bad of an accident, but the
7 Jeep blew up and in a matter of minutes this thing was gone.
8 And I said, you need to have your engineers or somebody look at
9 this problem because it could have been really bad.
10 **Q** Did you tell Chrysler what could have happened?
11 **A** Yes, sir.
12 **MR. BRANTLEY:** Objection, Your Honor.
13 **Q** What did you say?
14 **MR. BRANTLEY:** It's speculation and irrelevant what
15 could have happened.
16 **THE COURT:** I'm going to overrule the objection.
17 **A** I told them that if there was an elderly person seat
18 belt in the back of this -- in the backseat of this Jeep or if
19 a kid was in a car seat or strapped in there, I don't see how
20 they could have got out of there. And just like I told him
21 about my son, if this thing would have rolled, which it very
22 well could have, or -- and you can see in the pictures it
23 wasn't that far from the guardrail, if he couldn't have got
24 that driver's door open, he would have been burnt.
25 **Q** I want to show you now what I've already marked as

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1 **A** Yes, sir, it seems to be, yeah.
2 **Q** Number 2 -- we've looked at number 1 and saw your
3 phone number. Right after that there's a number 2. And tell
4 me if I've read this correctly. It says, "what happened,"
5 question mark. "The caller states that his son was involved in
6 a wreck. The caller states that the vehicle was hit in the
7 rear and the vehicle burst into flames and the vehicle was
8 burned up in four minutes. The caller states that the vehicle
9 was burned completely before the fire department arrived." Did
10 I read that right?
11 **A** Yeah. I mean, what hadn't burnt on the Jeep was what
12 you see in this picture right here because the rest of it, I
13 mean, you can -- the flames were pouring out all the windows
14 and everything.
15 **Q** And you just pointed to Plaintiffs' Exhibit 2; is
16 that right?
17 **A** Yes, sir. Yeah. That's the part I saw when I got on
18 the scene.
19 **Q** So the question is, what did Chrysler say?
20 **A** The man said he'd look into it, that he would have
21 his people look into it.
22 **Q** Did Chrysler ever get back to you?
23 **A** No. Well, yeah, they sent me a letter. I don't know
24 exactly how long it was after that.
25 **Q** Did anyone from Chrysler ever come see you?

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1 Plaintiffs' Exhibit 5. There's your copy. Take a look at
2 that. Does this -- this says at the top Customer Assistance
3 Inquiry Record, parentheses, CAIR, closed parentheses; is that
4 right?
5 **A** Yes, sir.
6 **Q** All right. Now, if we look down under the lowermost
7 bold line, there's a number 1 and it says, who was calling and
8 what is their contact information, and then there's a name. Is
9 that your name?
10 **A** Yes, sir, that's me.
11 **Q** Under that is -- there's a phone number. Is that
12 your phone number?
13 **A** Yes, sir.
14 **Q** If you look at the top of this document, there's -- I
15 guess the second line there's a box. It says "open date" and
16 then it says "October 11, 2012." Now, you said you didn't
17 remember the exact date, but does that appear to be around the
18 same time frame in which you called Chrysler to tell them what
19 had happened to your son's Jeep?
20 **A** Yes, sir, I think so, because he wrecked, I believe,
21 in September. And I called Chrysler two or three weeks maybe
22 after. Like I said, I thrashed this around in my head, didn't
23 know what to do, you know.
24 **Q** Does this appear to be some kind of record of your
25 call?

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1 **A** No.
2 **Q** Did they ever call you back on the phone?
3 **A** No.
4 **Q** I'm going to show you what's been marked as
5 Plaintiffs' Exhibit 6. Is that the letter that you received
6 from Chrysler?
7 **A** Yes, sir. Yeah. Yeah.
8 **Q** And I will read the second and last sentence in
9 what's sort of the middle paragraph. It says -- well, I'll
10 just read the whole -- whole middle paragraph.
11 "Chrysler Group, LLC, conducted an investigation into
12 the incident and inspected the vehicle. The inspector found no
13 indication of a manufacturer's defect that caused or
14 contributed to the incident on August 13, 2011. Is that what
15 it says?
16 **A** Yes, sir.
17 **Q** Did Chrysler ever in any way accept responsibility
18 for that Jeep catching on fire?
19 **A** Not to me they didn't, no.
20 **Q** Mr. Persinger, are you being paid to be here today?
21 **A** No, sir.
22 **Q** Why are you here?
23 (Video paused.)
24 **MR. BRANTLEY:** Objection, Your Honor. Irrelevant and
25 cumulative.

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1 **THE COURT:** I'm going to overrule the objection.
2 (Video resumed.)
3 **A** Well, you know, I've heard about this little boy that
4 got killed, and it's terrible. I hate this. And he's in God's
5 hands now. And no matter how this thing turns out, either way,
6 it's not going to bring that little boy back. But my
7 intentions of even contacting Chrysler to begin with is to keep
8 this from happening to somebody else. I -- I -- you know,
9 they -- something needs to be changed here, fixed. It's a
10 ticking bomb.
11 **MR. JEB BUTLER:** No further questions.
12 **CROSS-EXAMINATION**
13 **BY MR. BRANTLEY:**
14 **Q** Mr. Persinger, my name is Terry Brantley.
15 **A** Uh-huh.
16 **Q** We met for the first time just prior to starting
17 these depositions today.
18 **A** Yes, sir.
19 **Q** I do have a few follow-up questions.
20 **A** Okay.
21 **Q** I understand -- did you ever inspect the
22 undercarriage of this vehicle?
23 **A** Well, as far as inspecting, no. I usually change my
24 oil. And when the vehicle got 3,000 miles on it after I
25 purchased it, you know, we were going to change the oil. I

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1 even look like it's been hit.
2 **Q** After you got the letter from Chrysler that's been
3 previously marked as an exhibit, did you call Chrysler?
4 **A** No. I called them before I got this letter.
5 **Q** Okay. But after you got the letter, you didn't call
6 them again?
7 **A** No. No. No. I didn't figure there was no sense in
8 dealing with it. You know, they didn't find no problem, so --
9 I assume there is a problem but they don't want to admit it.
10 So --
11 **MR. BRANTLEY:** I object as nonresponsive.
12 **A** -- whatever.
13 **Q** Did you ever call Chrysler after you received that
14 letter?
15 **A** No, sir.
16 **Q** Do you have any background in automotive engineering?
17 **A** No. I'm an old coalminer. But I know right is right
18 and wrong is wrong. You need to fix something.
19 **Q** Well, my question is, do you have any -- have you
20 ever worked or been educated as an automotive mechanic?
21 **A** No.
22 **Q** You told me you've owned some Chevy trucks, pickup
23 truck. Do you know where the gas tanks are on those?
24 **A** In the middle.
25 **Q** Do you know where the gas tank was on your CJ5?

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1 went and got the filter and stuff. And I told Travis -- me and
2 him changed the oil. And I was looking up underneath it, and I
3 said, man, that gas tank, I said, that's a plastic tank. I
4 didn't know it was plastic. And I said, that thing is right in
5 the rear end of this thing and ain't nothing protecting it but
6 a plastic bumper. And I told him, I said, boy, you don't want
7 to get hit in the rear end in this thing.
8 **Q** Did you do anything else?
9 **A** No. That's all I do, is change the oil.
10 **Q** Are you aware whether, what you called a plastic gas
11 tank, are you aware of whether that's the type of material that
12 most manufacturers use to make their gas tanks?
13 **A** Well, no. I know I'm old-fashioned and used to they
14 made them out of metal. That's what I thought they were all
15 made out of, metal. I didn't know they were plastic.
16 **Q** Did you ever inspect the undercarriage of the Jeep
17 Liberty after the accident?
18 **A** No. After the accident, it was at the junkyard and
19 they wouldn't let us. There wasn't no sense in us looking at
20 it. You know, it was on the frame and --
21 **Q** You never attempted to determine if there was any
22 damage to the undercarriage between the axles, did you?
23 **A** I told Travis -- you know, I really didn't pay no
24 attention at the wreck. But once we got to the salvage yard, I
25 said, I want you to look at the back of that Jeep. It don't

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1 **A** In the rear end.
2 **Q** Your Caprice Classic?
3 **A** I'm not real sure. But the Jeep had 8-inch channel
4 iron bumpers on it and the frame -- a steel frame around this
5 gas tank and it was metal.
6 **Q** And you understand a Jeep Grand Cherokee is different
7 than a Jeep Liberty?
8 **A** Well --
9 **Q** Different vehicles?
10 **A** I know they're different vehicles. I don't know what
11 the difference is.
12 **Q** Have you ever owned a Jeep Grand Cherokee?
13 **A** No, sir.
14 (Video stopped.)
15 **MR. JEB BUTLER:** That concludes the deposition, Your
16 Honor. I would like to match up the depo exhibits on the
17 record with the trial exhibits with the Court's
18 indulgence.
19 **THE COURT:** I'm sorry?
20 **MR. JEB BUTLER:** I'd like to put this in the record.
21 Deposition Exhibit 1 is Trial Exhibit 585; Deposition
22 Exhibit 2, Trial Exhibit 586; Deposition Exhibit 3, 587;
23 Deposition Exhibit 4 is Trial Exhibit 588; Deposition
24 Exhibit 5 is Trial Exhibit 582, and Deposition Exhibit 6
25 is Trial Exhibit 583.

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THE COURT: All right. Ladies and gentlemen, it appears that we're at a stopping point for the evening. If you would, as you leave, if you would leave your notebooks there with the clerk.

And again I want to reiterate to you that you're not to have anything to do with this case, don't read anything or go by any scenes, don't Facebook, text, any social media about this case. Just go home and have a pleasant evening.

We'll start back again -- if you'll be here like you have, you've been extremely timely and that's very appreciative. If you'll go on in the jury room like you have been, and we'll get started just as quick as we can after nine o'clock. So be here at 9:00 a.m. in the morning.

Everyone remain seated in the courtroom while this jury leaves.

(Jury excused from the courtroom.)

THE COURT: We'll be in recess until 9:00 a.m.

(Court recessed at 5:06 p.m. to reconvene on March 26, 2015, at 9:00 a.m. Go to Volume 5.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA:
COUNTY OF LEON :

I, LORI DEZELL, Court Reporter, certify that the foregoing is a true and correct transcript of the proceedings taken down by me in the case aforesaid. The exhibits attached hereto, if any, are copies of documentary evidence only and the physical evidence remains in the custody of the Clerk. This certification is expressly withdrawn and denied upon the disassembly or photocopying of the foregoing transcript or any part thereof, including exhibits, unless said disassembly or photocopying is done by the official undersigned court reporter and original seal and signature attached hereto.

Dated this 16th day of June, 2015.



Lori Dezell
LORI DEZELL, RFR, CCR
Certificate Number B-1013

GEORGIA, DECATUR COUNTY

I, CECILIA WILLIS, CLERK OF DECATUR COUNTY SUPERIOR COURT, do hereby certify that the within and foregoing transcript is the original copy filed in this office.

Given under my hand and official seal this ____ day of _____, 2015.

CECILIA WILLIS, CLERK
DECATUR COUNTY SUPERIOR COURT

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